
(2010) 08 UK CK 0174

In the Uttarakhand High Court

Case No : Criminal Application No. 602 of 2006 (U/s 482 of Code of Criminal Procedure.)

Vijay Chaudhary and Another

APPELLANT

Vs

State of Uttaranchal and Others

RESPONDENT

Date of Decision : 11-08-2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 161, 482
Motor Vehicles Act, 1988 — Section 207
Penal Code, 1860 (IPC) — Section 420, 467, 468, 471

Citation : (2010) 2 UC 1339

Hon'ble Judges : Dharam Veer, J

Bench : Single Bench

Advocate : MC. Kandpal, sisted by Sri SS. Chaudhary, for the Appellant; Amit Bhart, Addl. GA for the State/respondent No. 1, for the Respondent

Final Decision : Dismissed

Judgement

Hon"ble Dharam Veer, J.—This criminal application, preferred u/s 482 of the Code of Criminal Procedure, 1973 (hereinafter to be referred as Code of Criminal Procedure), is directed for quashing the order dated 18.5.2006 and the entire proceedings of Criminal Case No. 1907 of 2006, State v. Vijay and Anr., u/s 420/467/468/471 Indian Penal Code pending before J.M. Haridwar.

2. Heard Learned Counsel for the parties and perused the material on record.

3. In brief, the facts of the case are that Respondent No. 3 ARTO Haridwar lodged an FIR stating therein that on 20.7.2005, a Bus No. UP12-A-7873 was seized as per Section 207 of the Motor Vehicles Act. The driver could not produce the valid documents of the said vehicle. On further enquiry, it came to light that the number UP12-A- 7873 was registered in the name of Ashok Kumar at Muzaffarnagar. On the spot, the Petitioner Vijay Chaudhary was found driving the vehicle in question. Thereafter the matter was investigated and after completing the investigation, the IO filed the charge sheet against the Petitioners, on the

basis of which learned J.M. Haridwar vide order dated 18.5.2006 took cognizance and summoned the Petitioners u/s 420/467/468/471 Indian Penal Code. Hence this petition.

4. Learned Counsel for the Petitioners argued that no offence is made out against them and the court below has wrongly summoned them. I do not find any force in this argument for the reason that on a perusal of the FIR lodged by the Respondent No. 3, the statement of the witnesses, namely, MM Jayaswal (complainant), Sudhanshu Garg, Mohan Lal, Darshan Singh and Ors. recorded u/s 161 Code of Criminal Procedure, I find that the offences punishable u/s 420/467/468/471 Indian Penal Code are prima facie made out against the Petitioners on the basis of the above-said discussion and the trial court has accordingly rightly summoned the Petitioners to face trial.

5. Even otherwise, the trial court will decide the case after recording the evidence of the complainant as well as that of the accused persons and also on the basis of the appreciation of the evidence as per law. It is well settled that while exercising jurisdiction u/s 482 of the Code of Criminal Procedure, this Court would not ordinarily embark upon the enquiry as to whether the evidence in question is reliable or not or whether on a reasonable appreciation of it accusation would not be sustained. That is the function of the trial court. If the allegations made in the FIR as well as the statements recorded u/s 161 Code of Criminal Procedure, are taken at their face value and accepted in their entirety, I am of the view that the Petitioners have rightly been summoned by the trial court. The trial court will decide the case after recording the evidence adduced before it. I am of the view that in the present case there is neither any miscarriage of justice nor any abuse of process of court.

6. For the reasons as aforesaid, C482 petition is devoid of merits and is dismissed. Interim order dated 16.12.2006 is vacated.