

(2011) 09 UK CK 0106

In the Uttarakhand High Court

Case No : Criminal Miscellaneous Application (C482) No. 891 of 2011

Virendra Singh

APPELLANT

Vs

State of Uttarakhand and Dalip Singh Bohra

RESPONDENT

Date of Decision : 27-09-2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 323, 324, 504

Citation : (2011) 09 UK CK 0106

Hon'ble Judges : Prafulla C. Pant, J

Bench : Single Bench

Judgement

Prafulla C. Pant, J.—Heard.

2. By means of this petition moved u/s 482 of Code of Criminal Procedure, 1973 (for short Cr.P.C.) the Petitioner has challenged the order dated 16.12.2010, in criminal case No. 1726 of 2010, and the order dated 22.10.2009, in criminal miscellaneous application No. 101 of 2009, passed by the Chief Judicial Magistrate, Nainital.

3. Learned Counsel for the Petitioner submitted that the impugned charge sheet filed by the Investigating Officer is not sustainable in law as the offences are non cognizable and the investigation could not have been taken up. However, on perusal of the papers on record, this Court finds that initially the FIR was lodged in respect of offences punishable u/s 323, 324, 504 IPC. Section 324 is a cognizable offence. As such, this Court finds no illegality in the investigation conducted by the police.

4. Another argument advanced on behalf of the Petitioner is that Petitioner was in the service of Air Force at the time of the incident. However, said plea is factual in nature which can be examined by the trial court after recording evidence. This Court in its jurisdiction u/s 482 Code of Criminal Procedure ., is not inclined to interfere with the trial of the case on that ground.

5. Therefore, without expressing any opinion 3 as to final merits of the case, the petition u/s 482 Code of Criminal Procedure, is dismissed with the observation that if the Petitioner Virendra Singh surrenders before the Court concerned his bail application shall be heard, and disposed of without unreasonable delay. (Interim relief application No. 1161 of 2011, stands disposed of).