
(2010) 07 UK CK 0050
In the Uttarakhand High Court

Yameen

APPELLANT

Vs

State and Others

RESPONDENT

Date of Decision : 27-07-2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 200, 202, 482
Penal Code, 1860 (IPC) — Section 420

Citation : (2010) 07 UK CK 0050

Hon'ble Judges : B.C.Kandpal, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

B.C. Kandpal, J.—This petition u/s 482 Cr.P.C. has been preferred by the applicant/petitioner for setting aside the order dated 27.4.2005 passed by Judicial Magistrate, Roorkee, Haridwar, in Criminal Complaint Case No. 1014 of 2005, Rajeshwar v. Yameen, u/s 420 I.P.C. P.S. Kotwali Roorkee, District Haridwar.

2. Brief facts of the case are that complainant-respondent No. 4 filed a criminal complaint case u/s 420 I.P.C. against the petitioner in the court of Judicial Magistrate, Roorkee, which was subsequently transferred to the court of 1st Judicial Magistrate, Haridwar. The statements of the complainant and his witnesses were recorded under Sections 200 and 202 Cr.P.C. The learned Magistrate having finding prima facie case against the petitioner summoned him u/s 420 of I.P.C. to face the trial, vide order dated 27.04.2005. Feeling aggrieved, the petitioner has preferred the present petition u/s 482 Cr.P.C. before this Court.

3. Heard Sri Manish Arora, learned Counsel for the petitioner, Sri S.S. Adhikari, learned A.G.A. for respondent Nos. 1 to 3, Mr. Pramod Tiwari, Advocate holding brief of Mr. Rajendra Singh, learned Counsel for respondent No. 4 and perused the record.

4. The learned Magistrate has taken the cognizance in the matter after

considering the entire material collected by the police during the course of investigation and no abuse of process of court would be caused to the accused petitioner, if the case proceeds before the trial court. The evidence in the case is still incomplete and hazy. This Court is not supposed to embark upon an enquiry with regard to allegations levelled against the petitioner at this stage. Any judgment rendered by this Court would amount to pre-trial. It is the job of the trial judge to decide the matter on the basis of evidence to be collected before it and then to decide the case on merits. However, I do not find any abuse of process of court and any flagrant injustice is to be caused to the petitioner at this stage, in case, if he faces the trial before the trial court. There is nothing on record which may indicate that the court below by summoning the petitioner as accused has committed any manifest error which may warrant the interference of this Court while exercising the jurisdiction u/s 482 Cr.P.C.

5. The petition lacks merit and is liable to be dismissed.

6. Accordingly, the petition is dismissed. The interim order dated 01.07.2005 stands vacated.