

**Criminalmisc.petitionno.194of2002**

Arun Kumar & others

....Applicants.

Vs.

StateofUttaranchal&others

....Opposite parties

**AND**

**Criminalmisc.petitionno.202of2002**

Arun Kumar

.....Applicant.

Vs.

State of Uttaranchal & others.

...Opposite parties.

**Hon'ble Irshad Hussain, J.**

Both these petitions under section 482 of the Code of Criminal Procedure have facts in common and therefore, these were taken up together and are deposed by a common judgment.

On 20.03.2002 petitioner posted as Sub Inspector, P.S. Kotwali City, district Hardwar alongwith other police personnel intercepted a vehicle and one person name das Vijay was arrested with illegal liquor. He was taken into custody and case was registered. On22.03.2002,SarvjeetSingh,respondentno.3lodgedareportagainst the petitioner alleging that the petitioner had under threat realized sum of Rs.50,000.00whenhehadreachedatthesceneoftheoccurrence of incident on 20.03.2002 and his driver Vijay was arrested. The petitioner had taken away the said amountina vehicle Indica car

U.A. 07687 at about 9:30 A.M. At that time some other people of the trading community have also appeared and have seen the transaction.

The contention of the petitioner in brief is that the above F.I.R. against him was filed with false allegations as a measure of counter blast to the legal action taken against Vijay the agent of respondent who was arrested for committing the offence punishable under the Excise Act. The petitioner in petition no. 194 of 2002 made a prayer that the first information report lodged against him under sections 384, 504, 506 of the I.P.C. and section 7/13, Prevention of Corruption Act be quashed.

Subsequently Sri R.K. Nayyar, President, Bhim Goda Vyapar Mandal, district Hardwar sent a complaint to the Chief Minister, State of Uttaranchal, wherein it was alleged that he had been threatened with dire consequences by the petitioner sub inspector who want the complainant to change his version in regard to the occurrence in which sum of Rs. 50, 000.00 was extorted in his presence from Sri Sarvjeet Singh. The complainant is alleged to have supported the incident and he was also named as a witness of that occurrence. The copy of the complaint was also sent to the higher government officials and on their instance F.I.R. no. 506 of 2002, under section 506 of I.P.C. was registered against the petitioner on 28.06.2002. With reference to this F.I.R. the second petition no. 202 of 2002 was filed with a prayer to have the said F.I.R. quashed.

Heard Sri Arvind Vashishtha, learned counsel for the petitioner and Sri R.S. Sammal, A.G.A. for the State.

It was submitted by the learned counsel for the petitioner that both the F.I.R. lodged against the petitioner were only meant to put the petitioner to harassment because the petitioner in the exercise of his official duty had intercepted an accused for having committed an offence under the provisions of the Excise Act and that it will not be

in the interest of justice that on the basis of the false version of the F.I.R., the petitioner is unnecessarily put to trial and demoralized. On the other hand, the argument of the learned A.G.A. was that both the F.I.R. prima facie disclose cognizable offence against the petitioner and the allegations have to be put to test by trial to find out whether the offence is established or not against the petitioner. Having considered the submissions in the light of the versions of the two F.I.R. it is pointed out at the outset that there are no cogent grounds to quash the two F.I.R. registered against the petitioner. The reason is that in view of the specific allegations made in the F.I.R. it cannot be said that no prima facie case was made out against the petitioner. Both the F.I.R. disclose cognizable offence. In the case of **State of Haryana and others Vs. Bhajan Lal and others, A.I.R. 1992, S.C., 604**, it has been held that the power to interfere with the investigation of a case should be exercised sparingly and that too in the rarest of rare cases. In the light of the versions of the two F.I.R. it cannot be said that these are not the rarest of the rare cases and therefore, both the petitions are liable to be dismissed.

Petitions are dismissed accordingly.

**(Irshad Hussain, J.)**

29.11.2002/B.