

In the High Court of Uttaranchal at Nainital.

Criminal Misc. Application no.257/2001

(Old No. 4249/1997)

1. Pitamber Dutt S/o Late Dashrath Prasad
2. Smt. Biraspathi Devi W/o Pitamber Dutt,
3. Smt. Sampati Devi W/o Late Dashrath

All residejts of village Pata Patti Sarjala,

P.S. Tehri District Tehri Garhwal

....Petitioners.

Vs.

- 1- State of U.P.
- 2- Shiv Saran S/o Maheshanand
R/o village Patta Patti Sarjula P.S. Tehri
District Tehri Garhwal

....Respondents.

Hon'ble Irshad Hussain, J.

Heard Sri D.S. Rawat in brief for Sri Lokendra Dobhal learned counsel for the petitioner and Sri Amit Bhatt learned A.G.A. and perused the record.

By means of this petition under section 482 of the Code of Criminal Procedure (for short 'Code') propriety of the notice under section 111 of the 'Code' had been challenged. The notice was issued in contemplation of the proceeding being drawn under section 107/116 of the 'Code'. The contention of the learned counsel is that the learned S.D.M. did not apply his mind before issuing notice under section 111 of the 'Code'. Perusal of the notice indicate that the cause of the dispute was not detailed in it and in view of it the submission of the learned counsel is justified. Even otherwise by lapse of time the purpose of the proceeding has been rendered infructuous and on this account also the proceeding has to be quashed.

The petition is allowed. The proceeding drawn under section 107/116 of the 'Code' and notice so issued under section 111 of the 'Code' are quashed. Consign.

Dated: 31-5-2004

(Irshad Hussain, J.)

ISB