

**IN THE HIGH COURT OF UTTARANCHAL
AT NAINITAL**

CRIMINAL REVISION NO.480 OF 2005

1. Navraj Dheer S/o Surendra Pal Dheer R/o 1412,
Sector -15, Panchkula Haryana
2. Surendra Pal Dheer S/o Late Sri M.R. Dheer R/o
1412, Sector-15, Panchkula Haryana

-----revisionists

VERSUS

1. State of Uttaranchal
2. Special Judicial Magistrate II Haridwar district
Haridwar.
3. Additional District Judge-1 Link Incharge,
District Haridwar.
4. M/S National Electricals E-28, Industrial Area
Bahadrabad P.S. Ranipur District Haridwar
through its proprietor Sri Jeet Sanghera S/o
Dasoda Singh Danghera R/o E-28, Industrial
Area Bahadrabad P.S. Ranipur District Haridwar

-----Respondents

HON'BLE J.C.S. RAWAT, J.

1. Heard Sri Navnet Kaushik learned counsel for the applicants and learned A.G.A. and perused the record.

2. This is an application u/s 482 Cr.P.C. Challenging the orders dated 7.7.2005 and 25.7.2005 passed by the Additional District Judge/I FTC Haridwar.

3. This court vide order dated 15.4.2005 passed in criminal misc. case no.203 of 2005 ordered that on depositing a sum of Rs.1,07,000/- in the court of Special Judicial Magistrate II, Haridwar the applicants shall be at liberty to adduce the evidence. An opportunity was given to him to produce entire defence evidence on the date fixed, if the applicant moves an application to summon the income tax record as well as record of the bank the Special

Judicial Magistrate II Haridwar was directed to pass an appropriate order to summon the evidence from the authorities concerned and he was also directed to decide the case within a period of two months.

4. Thereafter on 7.7.2005 Special Judicial Magistrate passed the order that no steps were taken to summon the postman and the amount of one day and D.A. to summon the postman has not been deposited and the number of the case, which was to be summoned, has not been given. So the witness and the file could not be summoned by the court below. The trial court further observed that certain documents were summoned from the income tax department and from the bank. The record of the income tax department was received. Thereafter the applicants did not appear before the court and the applicants did not request the court to peruse the record as to whether all the documents, which the applicants desired are available or not. The case was directed to be taken up after lunch and thereafter the applicants did not appear before the court below and moved an application for exemption of personal attendance. Even thereafter the case was taken up after some time but none appeared on behalf of the accused. The court below has taken a liberal view and no warrant was issued against the accused applicants. Thereafter on 13.7.2005 an application for inspection of record was moved beyond the prescribed time. It was moved after lunch and as such the application was rejected. The record was inspected on 14.7.2005. Thereafter no application was moved to the effect that certain documents have not been received. The applicants preferred a revision against the order dated 7.7.2005. Thus it is

clear that the applicants are avoiding the process of the court. Neither the applicants appeared before the court and the learned counsel for the applicant fairly contended that no application was moved before the court below. That certain documents had not been received to the court. The case was fixed for the defence and the applicants did not come to the court to do the effective paiokari of the case. The applicants were delaying the proceedings in a languish manner. In these circumstance the court was justified in closing the evidence. As such the court has rightly closed the defence. The applicants are directed to appear personally before the court below on 8.8.2005. In case the applicants do not appear personally before the court below on 8.8.2005 the court below will be at liberty to issue non-bailable warrants against the applicants. The applicants have challenged the aforesaid order of the Magistrate before this court and revisional court also. The matter may be disposed of by the revisional court in the light of the above observations. If any stay with regard to the proceedings has been granted it will stand vacated. The impugned orders are justified.

5. The application u/s 482 Cr.P.C. is disposed of finally accordingly.

6. Let a copy of this order be supplied to the learned counsel for the applicants on 1.8.2005 on payment of usual charges.

(J. C. S. Rawat, J.)

Dated: July 30, 2005