

In the High Court of Uttarakhand, at Nainital.
Criminal Misc. Application No. 719/2006

Yogesh Kumar (Constable 29 A.P.) S/o Ratan Singh
R/o Village Pandokheri, P.S. Nanota
District Saharanpur .. Applicant.

Vs.

1- State of Uttarakhand,
2- Yashwant Singh C.O. Sadar/ Line Haridwar
District Haridwar .. Respondents.

Sri Manish Arora, learned counsel for the applicant.

Sri Lalit Verma, learned A.G.A.

Hon'ble B.C. Kandpal, J.

By way of this petition U/S 482 Cr.P.C. the petitioner has sought the relief for setting aside the impugned summoning order dated 27-4-2006 as well as for quashing of the proceedings of Criminal Case No. 244 of 2006, State Versus Yogesh Kumar, U/Ss 420, 467, 648, 471 I.P.C. pending before Ist A.C.J.M. Haridwar.

2- Heard learned counsel for the parties and perused the record.

3. The record reveals that the first information report was lodged by Yashwant Singh Circle Officer Sadar, Haridwar, respondent No.2 against the petitioner U/Ss 420, 467, 468, 471 I.P.C. After investigation of the case, charge sheet was submitted against the petitioner in the Court of Ist C.J.M. Haridwar. The trial court after having

perused the material available before it was pleaded to summon the petitioner to face the trial.

4- Feeling aggrieved, the petitioner approached this court, by way of a petition U/S 482 Cr.P.C.

5- The learned counsel for the petitioner has submitted that the first information against the petitioner has been lodged on wrong facts and on account of the enmity.

6- After having considered the arguments advanced by the learned counsel for the parties, I am of the view that there is no abuse of process of court in this case. The learned Magistrate at the time of taking cognizance was not supposed to consider the evidence meticulously. After investigation prima facie case was made out against the petitioner and charge sheet was submitted against him. I do not find any infirmity in the impugned summoning order dated 27-4-2006.

7- The averments made in the petition are disputed question of fact which can be assessed and judged by the trial Magistrate. While exercising the jurisdiction U/S 482 Cr.P.C., I am not supposed to embark upon the enquiry with regard to the credibility of the evidence. Any judgment rendered by me would amount a premature judgment, where the evidence is yet to be adduced by the parties.

8- The petitioner has failed to make out a case for interference in the impugned summoning order dated 27-4-2006.

9- I do not find any sufficient ground at this stage for quashing the proceedings of the criminal case pending against the petitioner.

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

11- Accordingly the petition is dismissed.

(B.C. Kandpal, J.)

Dated: 31-08-2009

ISB