

Hon. Prafulla C. Pant, J.

Mr. Vivek Shukla, Advocate for the petitioner.

Mr. B.S. Parihar, Brief Holder for respondent No. 1.

Heard learned counsel for the petitioner and learned Brief Holder for respondent No. 1.

By means of this petition, moved under Section 482 of the Code of Criminal Procedure, 1973, the petitioner has sought quashing of the proceedings of criminal case No. 2906 of 2006 (arisen out of Crime No. 88 of 2006), State Vs. Sri Niwas Nautiyal, relating to offences punishable under Section 409, 420, 467, 468, 471 of I.P.C., police station Raipur, District Dehradun, pending in the court of Judicial Magistrate (CBI) Dehradun.

Learned counsel for the petitioner submitted that petitioner is innocent person, who was an employee of the institute run by one Sri S.P. Singh. Certain financial irregularities are said to have been committed by the petitioner in respect of which the petitioner has stated that the difference of Rs. 12,000/- found payable to the institute has already been paid on 23.07.2006 to the Manager of the institute, where the petitioner was employed. It is further pleaded that the petitioner has opened his own institute and there is rivalry between the complainant's institute and that of petitioner's institute. It is further pleaded that the petitioner is not a public servant and section 409 of I.P.C. is not attracted in his case. However, there are other offences also alleged against the petitioner.

Having considered submissions of learned counsel for the parties and after going through the papers on record, this Court is of the view that factual aspects of the matter which are raised in this petition can be better appreciated by the trial court. It is difficult for this Court to appreciate the factual points raised in the petition in its jurisdiction under Section 482 of Cr.P.C.

Therefore, the petition under Section 482 of Cr.P.C. is summarily disposed of with the observation that the pleas raised before this Court can be taken up by the petitioner before the trial court, and the same may be appreciated by said court while appreciating the evidence on record.

(Stay Application No. 144 of 2010 also stands disposed of).

(Prafulla C. Pant, J.)

26.02.2010