

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

**Criminal Misc. Application No. 265 of 2006**

(Under Section 482 of the Criminal Procedure Code)

Manish Kumar Mehta and another ..... Applicants

**Versus**

State of Uttaranchal and another ..... Respondents

Present: Mr. S.C. Tyagi, Advocate for the applicants.

Mr. K.S. Rautela, A.G.A. for the State/respondent No.1.

**Date: 29<sup>th</sup> June, 2012**

**Barin Ghosh, C.J. (Oral)**

In Criminal Case No. 196 of 2001, accused persons were to appear on 16<sup>th</sup> May, 2001, 27<sup>th</sup> June, 2001 and 1<sup>st</sup> August, 2001. When they did not appear, somebody else impersonated them. The case was pending before the learned 1<sup>st</sup> Additional Chief Judicial Magistrate (J.D.)/J.M. Hardwar. This fact was brought to the notice of the learned Magistrate, but the same was done by a separate complaint. The learned Magistrate, by an order directed those accused persons to furnish their specimen signatures. Aggrieved thereby, the accused persons have filed the present application stating that in view of Section 195 of the Criminal Procedure Code, no separate complaint could be filed by a private person in relation to anything that has happened in a court as the same can only be filed by the court itself. We think that the intention was to bring to the notice of the Magistrate concerned as to what has happened in his court in order to enable him to take appropriate action. The court, however, proceeded on the basis that the same was a separate proceeding.

I, accordingly, dispose of the matter by holding that the complaint, treated as a separate complaint case, should be

treated to be a complaint made in Criminal Case No. 196 of 2001 and the court shall proceed to determine that complaint in the manner the court deems fit and proper.

**( Barin Ghosh, C.J.)**

29.06.2012

P. Singh