

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Criminal Misc. Application (C-482) No. 67 of 2013

Taraknath Chatterjee Applicant

versus

State of Uttarakhand and others Respondent

Mr. Piyush Garg, Advocate for the applicant.

Mr. V.K. Gemini, Dy. Advocate General with Mr. K.S. Rawal, Brief
Holders for the respondent State.

Mr. H.M. Bhatia, Advocate for respondent no. 2.

U.C. Dhyani, J.(Oral)

By means of present application under Section 482 of Cr.P.C., the applicant seeks to quash the order dated 16.01.2013, passed by learned Sessions Judge, Dehradun, in criminal revision no. 161 of 2012, Income tax department vs State of Uttarakhand and others.

2) An FIR was lodged against the applicants and two others for the offence punishable under Section 120B, 201, 403, 411 of IPC. After the investigation, a charge-sheet was framed against the accused persons for the offence punishable under Section 424 of IPC. The same was done during the pendency of present application under Section 482 of Cr.P.C.

3) Respondent Income Tax Department filed an application for release of Rs. 1,56,45,000/- in their favour. The money was allegedly recovered from the

possession of applicant and two other persons. Learned Judicial Magistrate I, *vide* order dated 19.09.2012, did not find any valid ground to release the money in favour of Revenue and, therefore, dismissed the application of Income Tax Department. Aggrieved against the same, a criminal revision was preferred by the respondent Income Tax Department, which was decided by learned Sessions Judge, *vide* order dated 16.01.2013. The criminal revision filed on behalf of the Income Tax Department was allowed, order dated 19.09.2012, passed by learned Judicial Magistrate was set aside, the matter was remitted back to the Judicial Magistrate to pass order afresh in the light of certain observations made by learned revision court in the body of its judgment. Aggrieved against the same, present application under Section 482 of Cr.P.C. is filed on behalf of the accused-applicant.

4) After much deliberations, learned counsel for the applicant confined his prayer only to the extent that the trial court be directed to pass the order afresh without being prejudiced by the observations made by learned Sessions Judge in his order dated 16.01.2013. Such innocuous prayer of learned counsel for the applicant is worth accepting, taking into consideration the background facts of the case.

5) No interference is called for in the judgment and order under challenge. Learned Judicial Magistrate

is, however, directed not to be guided by the inferences drawn by learned revision court while passing a fresh order, according to law, after hearing both the sides.

6) With the direction as above, application under Section 482 of Cr.P.C. is disposed of.

(U.C. Dhyani, J.)

Dt. August 29, 2014.
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