

IN THE HIGH COURT OF UTTARAKHAND AT
NAINITAL

Criminal Misc. Application (C-482) No. 879 of 2016

Vijay Prakash

..... Applicant

versus

State of Uttarakhand & Another

..... Respondents

Mr. T.A. Khan, Senior Advocate assisted by Mr. Aditya Kumar Arya,
Advocate for the applicant.

Mr. P.S. Saun, Dy.A.G. along with Ms. Sangeeta Bhardwaj, Brief Holder for
the State/respondent nos. 1 & 2.

U.C. Dhyani, J. (Oral)

1. The applicant, by means of present criminal miscellaneous application filed under section 482 Cr.P.C., seeks following reliefs:

“ Order dated 02.7.2016 passed by the Additional Chief Judicial Magistrate, 2nd Dehradun, in Criminal Case No. 296 of 2015 “State vs. Vijay Prakash and others”, u/s 420, 467, 468, 471 and 120-B of IPC, may kindly be quashed.

It is further prayed that the respondent no. 2 be directed to hand over the keys of the Flat No. 306-B, Rock Valley Apartment, Sewla Kalan, Dehradun to the applicant or to his authorized agent.”

2. Two prayers were made by the applicant before learned Additional Chief Judicial Magistrate, 2nd, Derhadun. One, for permitting him to execute an agreement to sell while in judicial custody and, two, handing over the keys of his house by police of PS-Patel Nagar.

3. Learned ACJM, *vide* order dated 02.7.2016, dismissed such an application. Aggrieved against the same, present application under section 482 Cr.P.C. has been filed.
4. Learned senior counsel for the applicant has confined his prayer only to prayer no. 2 in the application under section 482 Cr.P.C.. So, this Court is not discussing such aspects of the matter, which relate to the first prayer in the application under section 482 Cr.P.C..
5. The house belongs to the applicant. The said house is mortgaged in favour of the bank. A search was conducted in the house of the applicant in connection with Case Crime no. 296 of 2015 under Sections 420, 467, 468, 471 IPC. The police conducted search and thereafter, put its own lock in the house of the applicant, which the applicant seeks to remove, by means of present application under section 482 Cr.P.C..
6. The Court requested Mr. Siddhartha Sah, Advocate, for rendering his valuable assistance in this matter. Mr. Siddhartha Sah, Advocate drew the attention of this Court towards Section 13(4) & Section 14 of the SARFAESI Act, 2002, which means that the police can not put its own lock on the house of the applicant, in the given facts of the case.
7. Application under section 482 Cr.P.C. is, therefore, allowed at the threshold. Police of PS-Patel Nagar is directed to remove its lock by handing over the keys of the house to the applicant or his authorized agent.

(U.C. Dhyani, J.)
29.7.2016

