

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Criminal Misc. Application No. 1304 of 2012

(Under Section 482 Cr.P.C.)

Madan Lal Ahuja

..... Applicant

versus

R.K. Sharma

..... Respondent

Mr. Karan Anand, Advocate for the applicant.

None is present on behalf of the respondent.

U. C. Dhyani, J. (Oral)

By means of present application under Section 482 Cr.P.C., applicant seeks to quash the entire proceedings of Criminal Complaint Case No.331 of 2010 (R.K. Sharma vs. Madan Lal Ahuja), pending in the Court of Special Judge Magistrate (CBI), Dehradun.

2. Respondent is said to be a practicing lawyer at Dehradun. He filed two criminal complaint cases under Section 138 of Negotiable Instrument Act against the applicant. Both the criminal complaint cases were contested by the applicant. On 29.11.2007, when applicant along with his son went to the Court campus, the respondent and his associates gave serious beating to the son of the applicant and also extended serious threats to his life.

3. Both the cases under Section 138 of Negotiable Instrument Act were decided on merits in favor of the applicant, after a gap of 18 years. Apart from aforesaid two cases, the respondent also implicated the applicant in a criminal case by lodging frivolous complaints under Section 420 IPC, but was subsequently converted into charge sheet. Applicant moved a complaint against the respondent before Bar Council of Uttarakhand for violating the rules of profession. Bar Council of Uttarakhand dismissed the complaint of the applicant and the same was communicated to him *vide* order dated 11.05.2009. After dismissal of complaint, the respondent filed a criminal complaint case under Section 500 IPC, which is under challenge in present application under Section 482 Cr.P.C.

4. Notice was issued to respondent, but none has turned up on his behalf.

5. It appears that the complainant is not interested in prosecuting the accused-applicant.

6. At the time of admission of present C-482 petition, this Court passed an interim order, vide order dated 07.12.2012, and stayed the criminal complaint case initiated against applicant under Section 500 of IPC, pending in the Court of Special Judicial Magistrate (CBI) Dehradun, till the next date of listing.

7. There seems to be substance in the contention of leaned counsel for the applicant that the criminal proceedings initiated against the applicant are nothing but abuse of process of the Court.

8. It will be a futile exercise to keep present petition under Section C-482 Cr.P.C. pending in this Court.

9. The Court can intervene in exercise of jurisdiction under Section 482 Cr.P.C. to prevent the abuse of process of law, as has been held by Hon'ble Apex Court in **Rajiv Thapar and others vs. Madan Lal Kapoor (2013) 3 SCC 330, Amit Kapoor vs. Ramesh Chander and another, 2013 (1) SCC (Crl.) 986 and Inder Mohan Gosami and another vs. State of Uttarakhand and others, (2008) 1 SCC (Crl.) 259.**

10. The petition under Section 482 Cr.P.C. is, therefore, allowed. Criminal Complaint Case No.331 of 2010 (R.K Sharma vs. Madan Lal Ahuja) under Section 500 IPC, pending in the Court Special Judicial Magistrate (CBI), Dehradun are hereby quashed.

11. Since present application under Section 482 Cr.P.C. is being decided in the absence of respondent, therefore, liberty is granted to him to move for recall of this order, if he feels aggrieved with the same.

(U. C. Dhyani, J.)
30.06.2017

