



2024:UHC:8888

HIGH COURT OF UTTARAKHAND AT NAINITAL

Criminal Misc Application No. 864 of 2024

Mohammad Yaseen

.....Petitioner

Versus

State Of Uttarakhand

.....Respondent

Presence:-

Mr. Mehboob Rahi and Mr. R K Rawat Advocate for the petitioner.

Mr. G.S. Sandhu, Additional Advocate General along with Ms. Mamta Joshi, Brief Holder for the State

Dated : 29.11.2024

Hon'ble Vivek Bharti Sharma, J. (Oral)

Present petition is filed by the petitioner to stay the further proceedings of summoning/cognizance order dated 19.01.2024 passed by Judicial Magistrate/Civil Judge, Kichha, District Udham Singh Nagar in Criminal Case No. 308 of 2024 under Section 3/5/11(1) of the Uttarakhand Cow Progeny Act, 2007 as well as the further proceedings of the aforesaid criminal case.

2. Counsel for the petitioner would submit that an F.I.R. is registered under the Uttarakhand Cow Progeny Act, 2007; the proceeding of the entire criminal case is unsustainable in the eyes of law as no case is made out against the petitioner/accused under the Uttarakhand Cow Progeny Act, 2007; that, there is no FSL report which suggest that the alleged meat is cow meat/flesh; that; there is no independent witness of the recovery of alleged meat/flesh.

He would further that the petitioner is not named in the First Information Report and the name



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of the petitioner/accused came into light on the statement of the co-accused, which was given by the co-accused during the investigation, therefore, entire criminal proceedings should be stayed as the trial court without considering the facts of the case has issued summoning order against the petitioner/accused.

3. State counsel vehemently opposed the contents of the present petition on the ground that against the summoning order, petitioner/accused has an equally efficacious remedy of filing revision before the concerned Sessions Court but the petitioner/accused straightaway approached this Court; that, the grounds taken in the petition are matter of evidence, which can be appreciated by the trial court only and not by this Court in its inherent jurisdiction under Section 528 B.N.S.S., therefore, the petitioner/accused is not entitled for any relief at this stage.

4. To this, counsel for the petitioner/accused seeks to withdraw the petition with liberty to avail his opportunity to argue on all the points raised in the petition at the time of arguments on framing of the charges, if not framed, or at the stage of the revision, as the case may be.

5. In view of above, present petition is dismissed as withdrawn with liberty as above.

(Vivek Bharti Sharma, J.)
29.11.2024

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