

SL. No	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGES'S ORDERS
			C482 No. 1647 of 2023 With C482 No. 1963 of 2019 <u>Hon'ble Sharad Kumar Sharma, J.</u> Mr. L.K. Tiwari, Advocate, for the applicant. Mr. S.C. Dumka, Brief Holder, for the State of Uttarakhand. These are two C-482 Applications. In C-482 Application No. 1647 of 2023, it emanates from Criminal Complaint Case No. 28 of 2022, Mahesh Kumar Dhingra Vs. Sachidanand Swami, being the proceedings, which have been drawn against the present applicant for trying him for the offences under Sections 323, 504, 506 and 452 of the IPC. These proceedings are pending consideration before the Court of Judicial Magistrate, Haridwar. In the connected C-482 Application No. 1963 of 2019, it arises out of the Complaint Case No. 873 of 2019, Mahesh Kumar Vs. Sachidanand Swamy, which yet again happens to be a complaint case, in which, the summoning order has been issued on 1st July, 2019, where the applicant has been summoned for the offences under Sections 323, 504 and 506 of the IPC. In these two C-482 Applications, the respondents had put in appearance as back as on 16th October, 2019, but they are yet to file their counter affidavit.

			Be that as it may. Looking to the wider directives and basic guiding factor provided in the judgment of Satender Kumar Antil Vs. Central Bureau of Investigation and another, as reported in (2022) 10 SCC 51, the underlying principle laid down by the Hon'ble Apex Court, was that in all these cases, where the offences complained of, they carry a sentence of less than seven years, unnecessarily C-482 Applications are not required to be ventured into, calling out of an appreciation of evidence at the stage of C-482 Application, which would be exclusively a subject matter of trial open to be argued by the parties, which would be based upon the evidence to be adduced by them. With that intention of the judgment of Satender Kumar Antil (Supra), since all these offences as complained of herein, and as argued by the learned counsel for the applicant in the context of the documents filed before this Court, it entails an appreciation of statement recorded under Sections 200 and 201 of the Cr.P.C., as well as the impact of the medical report, which has been submitted by the Medical Officer. Appreciation of these documents and evidence are not the scope for exercise of powers under Section 482 of the Cr.P.C., because there may be a version and a counter version to the documents, which are relied by the applicant or the parties, which would be falling within the domain of consideration for the Trial Court before whom the cases are pending consideration.
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			In that eventuality, and particularly the guiding line which has been issued by the Hon'ble Apex Court in the matter of Satender Kumar Antil (Supra), the spirit behind it was, that the lis has to be expedited in its adjudication, should not be kept lingering because of the interference being made by the Court under Section 482 of the Cr.P.C. on an issue which requires appreciation of evidence, or which are trifle in nature. Thus, the C-482 Applications would stand disposed of with the liberty left open for the applicant to surrender before the Court and seek his bail in the light of the guidelines framed in para 3 (e) of the said judgment, which governs the principle pertaining to the offences, which carry a sentence of less than seven years, and if he does so within a period of two weeks from today, the learned Court of Judicial Magistrate, Haridwar, will consider his application in the light of the guidelines framed in para 3 (e) of the said judgment. Subject to the aforesaid, the C-482 Applications, would stand disposed of. (Sharad Kumar Sharma, J.) Dated 11.09.2023 Shiv
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