

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.1892 of 2023 <u>Hon'ble Sharad Kumar Sharma, J.</u> Mr. Narendra Bali, Advocate, for the applicant. Mr. V.K. Gemini, D.A.G. for the State of Uttarakhand/1. The scope of exercise of the powers under section 482 of CrPC, are too limited, until and unless, apparently it reveals that there happens to be a violation of any specific provisions of the law, which may amount to be an abuse of process. The term abuse of the process, as used under section 482 of CrPC, will simultaneously apply to the accused person, too, because here what has happened is that after the initiation of the proceedings, it is contended by the applicant that the final report was submitted, subsequent to which the summoning order has been issued as back as on 18.02.2017. Taking an advantage of the issuance of the summoning order, and contending therein that he didn't had the knowledge of the same, he preferred a revision in the year 2021, and the said revision was dismissed as withdrawn, with the liberty reserved for him to file a writ petition. Consequently, on the pretext of an order dated 08.08.2023, the instant C482 application has been preferred. Learned counsel for the applicant intends to address the court on various factual aspects to contend that the proceedings are malicious in nature, but the appreciation of the facts and evidence becomes inevitable in order to come to the conclusion as to whether the proceedings are malicious in nature or not, is a question which would be outside the ambit of the exercise of the powers under section 482 of CrPC, because maliciousness of proceedings cannot be exclusively determined on the basis of the

			statement or the pleadings raised. It will always be conclusively determined after appreciation of the evidence in order to attach a malicious act to an act complained of. Appreciation of the evidence so as to arrive at a conclusion of maliciousness is not the scope under section 482 of CrPC. This Court is of the view that when the applicant got the knowledge of the summoning order dated 18.02.2017, and thereafter preferred the revision in the year 2021, that itself was after a sufficiently long time, and that too when at a later stage he got the revision dismissed as withdrawn on 08.08.2023, with the liberty left open for him to press his remedies as prayed for by filing of the writ petition, and that itself will not give him a licence to invoke 482 of CrPC proceedings, when the revision preferred by him itself was at a much belated stage. The jurisdiction under section 482 of CrPC or its corresponding provisions under Article 226 of the Constitution of India, is limited to be considered, subject to an apparent error of law, if the determination of error of law entails a determination of the evidence to arrive at a conclusion as to whether there is an apparent error of law. This Court is of the view that determination of an apparent error of law, if it entails an appraisal of the evidence, will not be falling within the scope of 482 of CrPC. Rather entertaining this C482 application at this belated stage to the proceedings drawn in the year 2017, would be nothing but an articulative effort made by the applicant, to somehow prolong the proceedings, which have been drawn against him. Thus I do not intend to exercise my inherent jurisdiction under 482 of CrPC. The C482 application would accordingly stand dismissed. (Sharad Kumar Sharma, J.) 21.09.2023 NR
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