



HIGH COURT OF UTTARAKHAND AT NAINITAL

Criminal Misc. Application U/s 482 No. 384 of 2022

06 November, 2024

Ramsukh

--Petitioner

Versus

State of Uttarakhand

--Respondent

Presence:-

Ms. Medha Pande, proxy counsel for Mr. Lalit Sharma, Advocate for the petitioner.

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

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

This C482 petition is filed for setting aside the order dated 21.12.2021 (*Annexure No.7 to the petition*) passed by 1st Additional Chief Judicial Magistrate, Dehradun whereby the application 60Kha (*Annexure No.5 to the petition*) filed by the petitioner in Criminal Case No.4805 of 2013, '*State Vs. Ramsukh & Another*' for summoning the necessary documents in original has been dismissed.

2. Learned counsel for the petitioner/accused would submit that the petitioner was the Village Pradhan of Niranjapur, District Dehradun during 1988 to 1996; that, one of the resident of the village/complainant, namely, Ajit Singh lodged an FIR against the petitioner/accused in Police Station Patelnagar, District



Dehradun with the allegation that the petitioner/accused during his tenure as Village Pradhan misappropriated the public money by making forged documents; that, the District Magistrate, Dehradun imposed penalty of ₹2,81,812/-upon the petitioner /accused; that, after completion of investigation, charge sheet was filed and proceedings of Criminal Case No.4805 of 2013, 'State Vs. Ramsukh & Another', under Sections 409, 467, 468 and 471 of IPC (*The Penal Code as then was*) was initiated against the petitioner /accused.

3. He would further submit that during the trial, the prosecution did not file relevant documents, which were essential for just and proper decision of the case like the original cheque book and passbook etc., therefore, the petitioner/accused filed an application 60Kha (*Annexure No.5 to this petition*) on 07.12.2021 in the Trial Court to summon those documents in original, however, the trial Court vide its order dated 21.12.2021 (*Annexure No.7 to the petition*) dismissed the said application.

4. Counsel for the State would vehemently oppose this petition on the ground that the impugned order dated 21.12.2021 passed by the 1st Additional Chief Judicial Magistrate, Dehradun is correct in facts and law; that, the Trial Court while dismissing the application (*Paper No.60Kha*) had observed in the impugned order dated 21.12.2021 that the case is old and the said application



filed by the petitioner is just to delay the proceedings of the case.

5. Perusal of the impugned order would reveal that the application (*Paper No.60Kha*) was filed after closure of the defense evidence by the petitioner /accused, which was closed by the petitioner /accused himself.

6. The Co-ordinate Bench vide its order dated 29.03.2022 wanted to acquaint itself about the necessity of the application, therefore, directed the petitioner /accused to file the statements of the witnesses as well as the copy of the charge sheet. However, the same have not been filed till date rather the petitioner/accused kept on seeking adjournment.

7. Today also counsel for the petitioner seeks adjournment to file statements of witnesses by way of supplementary affidavit but learned counsel for the petitioner/accused was at loss on the query of this Court that why the original documents are necessary for proper adjudication of the case when the forged documents have already been brought on record. Moreover, it is also not pleaded that the existence of documents prayed to be summoned were put to the prosecution witnesses in their respective cross-examinations. Last but not the least, the case before the Trial Court was at the stage of arguments on 17.11.2021 and there was no stay on the trial. As the counsel for the petitioner/accused is unable to tell the



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status of trial, it is most likely that case might have been decided by now.

8. Having considered the submissions and after going through the record available on file, this Court is of the considered view that it is not a fit case, in which, the High Court should invoke its inherent jurisdiction under Section 482 of Cr.P.C., which otherwise neither smacks any malice nor is contrary to the provisions contained under the Code of Criminal Procedure.

9. In view of the above, this Court is not inclined to interfere in the impugned order. Accordingly, present C482 petition lacks merits and the same is hereby dismissed *in limine*.

10. The petitioner/accused is directed to appear before the court concerned in trial, if already not decided, on 13.11.2024 at 10:30 A.M. Trial Court is not required to issue notice of appearance to the petitioner/accused.

11. Counsel for the petitioner /accused is directed to inform the petitioner /accused accordingly.

12. Let a copy of this order be sent forthwith to the court concerned, if trial is still going on, for information, compliance and to proceed as per law.

(Vivek Bharti Sharma, J.)

06.11.2024

SS SUKHBANT SINGH

Digitally signed by Sukhbant Singh, DN: cn=Sukhbant Singh, o=UHC, ou=UHC, email=sukhbant.singh@uhs.ernet.in, c=IN