



2024:UHC:9059

HIGH COURT OF UTTARAKHAND AT NAINITAL

Criminal Misc Application No.508 of 2024

4th December, 2024

Mohd. Idul Jahur

--Applicant

Versus

State of Uttarakhand & Anr.

--Respondents

Present:-

Mr. Mukul Singh Dangi, Advocate for the applicant

Mr. G.S. Sandhu, Addl. A.G. for the State.

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

By means of present petition, petitioner seeks quashing of charge sheet no.02 of 2024 dated 18.03.2024 and the cognizance/summoning order dated 15.06.2024 passed by Judicial Magistrate, Kirtinagar, District Tehri Garhwal as well as the entire proceedings of Criminal Case No.89 of 2024 "*State vs. Mohd. Idul Jahur and Others*" for the offence punishable under Sections 120-B, 420, 467, 468, 471 of IPC, P.S. Hindolakhil, District Tehri Garhwal.

2. In brief, the allegations made in the present FIR lodged by respondent no.2/complainant against the petitioner and his wife is that the wife of present petitioner, namely, Smt. Jafran has misused the government money by preparing fake and fabricated documents and taking benefit of Government Scheme "*Indira Awas*" twice whereas the benefit of this Scheme is available only once; that, co-accused Smt. Jafran in collusion with her husband i.e. the present petitioner/accused prepared forged and fabricated



documents and took undue advantage of ₹ 50,000/- under the said Scheme.

3. Learned counsel for the petitioner/accused would submit that the present petitioner has been falsely implicated in the instant crime by respondent no.2/complainant due to previous enmity; that, the daughter-in-law of present petitioner had moved an application u/s 156(3) of Cr.P.C. before the C.J.M., Tehri Garhwal regarding the fraud committed by respondent no.2/complainant and other persons; that, the C.J.M., Tehri Garhwal, vide its order dated 24.12.2022, had partially allowed the application and had directed the Tehsildar concerned to register the FIR against the respondent no.2/complainant and others under the relevant sections.

Besides, he would submit that the concerned Department, from which the petitioner/accused has taken benefits of government scheme, has never made any complaint against the petitioner/accused and his wife.

4. Learned State Counsel, per contra, would vehemently oppose the petition on the ground that during investigation ample evidence was collected against the petitioner/accused on the basis of which there is sufficient ground to proceed against the petitioner/accused; that, after proper investigation charge sheet has been filed and the petitioner/accused has been rightly summoned to face the trial under the relevant sections; that, the issues raised by the petitioners are, apparently, his defence and is matter of evidence.



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5. Heard the submissions of the learned counsel for the respective parties and perused the material available on file.

6. In the considered opinion of this Court, present matter pertains to intricate question of facts to be proved by way of evidence in trial to reach its logical conclusion. The Court, in exercise of its jurisdiction under Section 528 of B.N.S.S. cannot go into the truth or otherwise of the allegations made in the complaint or delve into the disputed question of facts. The grounds taken by the petitioner/accused are, apparently, his defence, truthfulness of which can be ascertained by leading evidence in the trial court and not by way of invoking jurisdiction under Section 528 of B.N.S.S. at this stage.

7. In view of the foregoing discussion, there is no merit in the present petition. Same is hereby dismissed *in limine*.

(Vivek Bharti Sharma, J.)

04.12.2024

Rajni

RAJINI
GUSAIN