



2024:UHC:8150

HIGH COURT OF UTTARAKHAND AT NAINITAL

Criminal Misc Application No. 752 of 2024

05 November, 2024

Amar Singh & Ors.

--Petitioners

Versus

State Of Uttarakhand & Anr.

--Respondents

Presence:-

Ms. Pushpa Joshi, learned Senior Counsel assisted by Ms. Chetna Latwal, counsel for the petitioners.

Mr. G. S. Sandhu, learned Additional Advocate General assisted by Ms. Mamta Joshi, learned Brief Holder for the State.

Hon'ble Vivek Bharti Sharma, J.

This criminal petition has been filed by the petitioners/accused for quashing of summoning order dated 20.02.2018 passed by 3rd Judicial Magistrate and subsequent judgment/order dated 20.09.2024 passed by 1st Additional District & Sessions Judge, District Haridwar as well as the entire proceedings of Criminal Case No.505 of 2017 under Sections 323, 504 & 506 of IPC, Thana-Pathri, District Haridwar.

2. Learned Senior Counsel for the petitioners/accused would submit that the only ground is that the incident is of the year 2008 and if the petitioners/accused are made to face the trial after such



a long period, then it will be a big hardship for them; that, besides, the matter was twice investigated by the police but in the first charge-sheet present petitioners/accused were not named and when the matter was re-investigated by the order of the court, then again present petitioners/accused were not charge-sheeted .

3. In view of the submissions made by the learned Senior Counsel for the petitioners/accused, this Court perused the impugned summoning order passed by the 3rd Judicial Magistrate, Haridwar and finds that the said order is a detailed and speaking order. Before allowing the application moved by the complainant u/s 319 of Cr.P.C., learned trial court considered the statements of PW1 Karan Singh, PW2 Sanjay Kumar, PW3 Bhura and PW5 Rajendra Prasad and observed that as per the testimony of these witnesses, petitioners/accused Amar Singh, Rajender & Rishipal had inflicted injuries by sticks, therefore, they should be summoned in exercise of power of the court under Section 319 of Cr.P.C. Against the summoning order, petitioners/accused had preferred a Criminal Revision No. 281 of 2018, which was disallowed by 1st Additional District & Sessions Judge, Haridwar vide judgment/order



dated 20.09.2024. The revisional court also perused and considered the statements of the witnesses and extensively discussed the case-law on the subject matter and thereafter affirmed the order of the trial court thereby summoning the present petitioners/accused u/s 319 of Cr.P.C.

4. Having gone through the impugned summoning order passed by the trial court and the judgment passed by the revisional court, this Court does not find any illegality or patent error in the same.

5. It is trite that the power under Section 482 Cr.P.C./Section 528 B.N.S.S. has to be exercised sparingly, carefully and with caution and only to prevent abuse of process of any Court or otherwise to secure ends of justice. In view of this Court, this is not the fit case where the powers u/s 528 of B.N.S.S. should be exercised.

6. Learned Senior Counsel for the petitioners/accused also could not demonstrate any illegality or manifest error in the impugned judgments/orders.

7. Accordingly, present petition is devoid of any merit. Same is hereby dismissed *in limine*.

8. Petitioners/accused are directed to appear



2024:UHC:8150

before the Trial Court on 13.11.2024 at 10:30 AM. No notice of appearance would be sent to the petitioners/accused by the concerned Trial Court.

9. Learned counsel for the petitioners/accused is requested to inform the petitioners accordingly.

10. Let copy of this order be sent to the Trial Court for ensuring compliance, as per law.

(Vivek Bharti Sharma, J.)
05.11.2024

Akash

AKASH