



2025:UHC:11493

HIGH COURT OF UTTARAKHAND AT NAINITAL

Criminal Misc. Application (C-482) No. 1793 of 2017

Bhupendra Singh Bisht -----Applicant
Versus
State of Uttarakhand and another -----Respondents

Presence:-

Mr. M.S.Pal, learned Senior Counsel, assisted by Mr. Shivam Singh Pargai, learned counsel for the applicant.

Mr. Deepak Bisht, learned Deputy Advocate General along with Mr. Devender Singh learned AGA for the State of Uttarakhand.

None for the respondent no.2.

Hon'ble Mr. Subhash Upadhyay, J.

Petitioner has filed the present C-482 Application challenging the charge-sheet no. 01/2017 dated 21.08.2017 and the summoning order dated 13.10.2017, passed by the Chief Judicial Magistrate, Pithoragarh in Criminal Case No. 1443 of 2017, State vs. Umed Singh and others, under Sections 420,465,467,468,471,406,409 and 120B of IPC.

2. Learned counsel for the applicant submits that a First Information Report was registered on 17.10.2015 under Sections 420, 467, 468, 471 of IPC. As per the contents of the said FIR, the incident pertains to the year 2008-2009 to 2013-2014 and the allegations were that a fictitious bank account was opened by the Secretary, Mini Bank Satgal and a sum of Rs. 6,92,937/- was misappropriated by the Secretary and in the inquiry report submitted by the District Development Officer, Pithoragarh, dated 21.05.2015, the responsibility was fixed on the Secretary, Mini Bank Satgal.

3. Learned counsel for the applicant submits that



during the investigation, the name of the applicant came into light and the applicant was arrested, however, his bail application no. 1015 of 2016 was allowed on 09.08.2016. He further submits that the charge-sheet against the applicant was filed on 21.08.2017 before the Chief Judicial Magistrate, Pithoragarh and the cognizance was taken on 13.10.2017 and the said order has been challenged in the present C-482 Application.

4. Counsel for the applicant submits that the applicant was not named in the FIR and, moreover, the departmental inquiry was also conducted against the applicant on the same charges and in an enquiry conducted by the Deputy Chief Veterinary Officer, Pithoragarh on the direction of the District Development Officer, Pithoragarh, the said authority vide its report dated 26.11.2015 clearly opined that the applicant is liable to be reinstated in service with some minor punishment or censure entry. He submits that the applicant, who was placed under suspension for the same set of charges was thereafter reinstated and he joined the duties in pursuance to the order dated 01.12.2017 passed by the District Development Officer, Pithoragarh. He further submits that the applicant was reinstated with full salary.

5. Learned counsel for the applicant, as such, submits that the criminal proceedings initiated against the applicant is an abuse of the process of law as, *prima facie*, no allegation was levelled against the applicant and, moreover, the summoning order does not disclose any reason or any application of mind by the learned Magistrate as in a typed and cyclostyle manner, the



applicant as well as the Secretary of the Bank and the other persons have been summoned.

6. Having heard learned counsel for the parties and on perusal of the record it is evident that the applicant was not named in the FIR and it appears that during the investigation, the applicant was named and the charge-sheet has been submitted against him and other persons. The records further reveals that for the same set of charges, the departmental proceedings were initiated against the applicant and on the recommendation of the Inquiry Officer the applicant was reinstated with full salary. The departmental proceedings against the applicant were culminated and as the departmental proceedings against the applicant were on the same set of charges, as such, this Court is of the view that the criminal proceedings against the applicant on the same set of charges is not permissible. Moreover, the cognizance order reveals that there is no finding with respect to the applicant, *vis-a-vis*, the other persons against whom the summons were issued and the summoning order is a cyclostyle typed, cryptic order which does not provide any reason for summoning the applicant.

7. The Hon'ble Apex Court in the case of ***Pepsi Food Ltd. and another vs. Special Judicial Magistrate and others***, reported in ***(1998) 5 SCC 749***, has held in para 28 of the judgment as hereunder:-

“Summoning of an accused in a criminal case is a serious matter. Criminal law cannot be set into motion as a matter of course. It is not that the complainant has to bring only two witnesses to



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support his allegations in the complaint to have the criminal law set into motion. The order of the magistrate summoning the accused must reflect that he has applied his mind to the facts of the case and the law applicable thereto. He has to examine the nature of allegations made in the complaint and the evidence both oral and documentary in support thereof and would that be sufficient for the complainant to succeed in bringing charge home to the accused. It is not that the Magistrate is a silent spectator at the time of recording of preliminary evidence before summoning of the accused. Magistrate has to carefully scrutinise the evidence brought on record and may even himself put questions to the complainant and his witnesses to elicit answers to find out the truthfulness of the allegations or otherwise and then examine if any offence is prima facie committed by all or any of the accused.”

8. In view of the above, the instant C-482 Petition is allowed. Accordingly, the impugned charge-sheet dated 21.08.2017, cognizance order dated 13.10.2017, passed by learned CJM, Pithoragarh and the entire proceedings of the Criminal Case No. 1443 of 2017, State vs. Umed Singh and others, under sections 420, 465, 467, 468, 471, 406, 409 and 120-B IPC are quashed qua the applicant.

(SUBHASH UPADHYAY, J.)

Dated: 22.12.2025
Kaushal