



2024:UHC:8785

HIGH COURT OF UTTARAKHAND AT NAINITAL

Criminal Misc Application No.619 of 2025

09 May, 2025

Aditya Singh

--Petitioner

Versus

State of Uttarakhand and Another

--Respondents

Presence:-

Mr. Bhupendra Singh Bhandari and Mr. Mukul Dangi, Advocate for the petitioner.

Mr. Deepak Bisht, learned Deputy Advocate General for the State.

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

This C528 petition is filed with the following

prayer:-

- i. Quash the impugned charge sheet No.325 of 2024 dated 16.08.2024 submitted by the Investigating Officer against the applicant;
- ii. Quash the impugned cognizance/summoning order dated 19.03.2025 passed by the learned Additional Chief Judicial Magistrate, Kashipur, Udham Singh Nagar in Criminal Case No.274 of 2025, "State Vs. Aditya Singh" (FIR No.19 of 2024) punishable U/s 66(C) of Information Technology (Amendment) Act, 2008, P.S. Kashipur, District Udham Singh Nagar
- iii. Quash the entire criminal proceedings arising out from the Criminal Case No.274 of 2025, "State Vs. Aditya Singh"(FIR No.19 of 2024) punishable U/s 66(C) of Information Technology (Amendment) Act, 2008, P.S. – Kashipur, District Udham Singh Nagar pending in the Court of learned Additional Chief Judicial Magistrate, Kashipur, Udham Singh Nagar.
- iv. Pass any such other further order as this Hon'ble Court may deem fit in the facts and circumstances of the case.



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2. Learned counsel for the petitioner /accused would submit that petitioner/accused and the complainant /respondent no.2 were friends; that, the allegations are that petitioner/accused made IDs in the name of complainant/respondent no.2 on Instagram and was sending messages to the persons known to her with follow request; that, the petitioner/accused was sending photographs of the complainant/respondent no.2 and one of her friend Abhishek, to the persons known to her and these messages were 40 to 50 in number per day with fraud calls.

3. Learned counsel for the petitioner/ accused would further submit that, as per the F.I.R. and investigation, one ID was made in the name of respondent no.2/ complainant and three mobile numbers were used to send Instragram, Whatsapp messages and to make fraud calls; that, however, out of these three numbers only one belonged to the petitioner/accused, hence, the charge-sheet and criminal proceedings are unsustainable.

4. Per contra, learned counsel for the State would submit that petitioner has designedly not filed the statements of witnesses forming part of the charge-sheet; that, only report under Section 173 Cr.P.C. has been filed.



5. Perused the record in view of the submission made by learned counsel for the parties.

6. At the very inception, it would be pertinent to observe that the petitioner/accused has not filed evidences i.e. statements of witnesses and documentary evidences forming part of the charge-sheet submitted by the Investigating Officer. As submitted by the learned counsel for the State, the petitioner /accused is trying to simplify the things and trivialise the offence by merely filing the opening part of the charge-sheet under Section 173 Cr.P.C. It is important to observe that the report under Section 173 Cr.P.C. and charge-sheet contains only gist of investigation in the words of Investigating Officer. The evidences means the statement of witnesses and the documentary evidence collected during investigation and filed along with report under Section 173 Cr.P.C.

7. The FIR is not supposed to contain all the evidences and minute details of the offence, as the same is not the encyclopedia. The reliance placed on FIR is also misplaced. The report under Section 173 Cr.P.C. along with charge-sheet contains only the gist of the investigation in the words of Investigating Officer and not all the evidences recorded therein. Nevertheless, it has come in the report under Section 173 Cr.P.C. that Mobile No.875 555 8514 was owned by the petitioner/accused which was used for sending the objectionable messages and making fraud calls.

8. Moreover, submissions made by learned counsel for the petitioner /accused are subject matter of the trial that cannot be considered at this stage by this Court by invoking its inherent powers under Section 528 of B.N.S.S.



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9. On perusal of the entire material available on record, this Court does not find any manifest error in impugned cognizance /summoning order dated 19.03.2025 passed by the learned Additional Chief Judicial Magistrate, Kashipur, Udham Singh Nagar in Criminal Case No.274 of 2025, “*State Vs. Aditya Singh*” (FIR No.19 of 2024) punishable U/s 66(C) of Information Technology (Amendment) Act, 2008, P.S.-Kashipur, District Udham Singh Nagar.

10. Accordingly, this Court is of the opinion that it is not a fit case in which the High Court should invoke its inherent jurisdiction under Section 528 of B.N.S.S. Accordingly, this petition is dismissed *in limine*.

11. A copy of this order be sent to the Trial Court concerned for information.

(Vivek Bharti Sharma, J.)

09.05.2025

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