



2025:UHC:4200

HIGH COURT OF UTTARAKHAND AT NAINITAL

Criminal Misc Application No. 665 of 2025

20 May, 2025

Irfan

--Petitioner

Versus

State of Uttarakhand & Others

--Respondents

Presence:-

Mr. Bilal Ahmed, Advocate for the petitioner.

Mr. Deepak Bisht, learned D.A.G. for the State.

Mr. A. K. Beniwal, Advocate for the respondent no.3/prosecutrix.

Hon'ble Vivek Bharti Sharma, J.

This criminal misc. application is filed under Section 528 of B.N.S.S. by the petitioner/accused for quashing of the summoning order dated 14.11.2024, charge-sheet dated 07.11.2024 as well as the entire proceedings of Session Trial No.169 of 2024 (*Case Crime No.466 of 2024*), titled as “*State vs. Irfan*” pending in the court of learned F.T.S.C./Additional District Judge, Roorkee, District Haridwar for the offence punishable under Sections 137(2), 87, 64(2)(f), 64(2)(e) of B.N.S. & 5(1), (n), (j)(ii)/6 of POCSO Act, P.S. Gang Nahar, District Haridwar.



2. Respondent no.3/prosecutrix is present in person before the Court today.

3. This present petition is under defect for the requirement of the affidavit of the respondent no.2/complainant who happens to be the father of the respondent no.3/prosecutrix.

4. Learned counsel for the petitioner/accused and respondent no.3 would submit that this objection cannot be removed for the reason because the respondent no.2/complainant is not cooperating to compound the offence with the petitioner/accused.

5. The Court asked the learned counsel for the petitioner regarding ascertaining the age of the respondent no.3/prosecutrix, in reply he stated her date of birth is 12.02.2005 and the date of the alleged incident is 06.09.2024.

Further, learned counsel for the respondent no.3/prosecutrix has not confirmed the submission as submitted by the learned counsel for the petitioner.

6. On this, a specific query was made to the respondent no.3/prosecutrix in reply thereto, she



submitted that she has never been to school.

7. At this juncture, the learned State counsel would submit that as per the final report/charge-sheet dated 07.11.2024 itself it is amply clear that the statement of the Principal, S.D.P.C. Inter College, Gang Nahar, District Haridwar was also taken.

He would further submit that it is *prima facie* clear that the respondent no.3/prosecutrix has gone to school but her date of birth and educational status are being designately hidden to mislead the Court by making wrong statement at Bar.

8. Learned State counsel would further submit that the petitioner/accused has not filed the statement of the witnesses and the evidences collected during the course of investigation with this petition which would have removed the cloud of doubt about the date of birth and educational status of the respondent no.3/prosecutrix; that, *prima facie* seems to be an attempt to mislead the Court to pass wrong order.

9. At this stage, learned counsel for the petitioner/accused and respondent no.3/prosecutrix



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tender their unconditional apology for this act.

10. The unconditional apology of the learned counsel for the petitioner and respondent no.3 is hereby accepted. However, this Court cannot be a silent spectator to such attempts which mislead and manipulate the judicial process. The parties are hereby sternly warned that any further attempt to conceal material information or mislead the Court will attract stringent action which will not only include imposition of exemplary costs but initiation of appropriate proceedings as per law against the erring person.

11. Accordingly, the present C-528 petition is hereby dismissed.

12. Copy of the order be sent to the trial court concerned for information.

(Vivek Bharti Sharma, J.)
20.05.2025

Akash