



2025:UHC:2028

HIGH COURT OF UTTARAKHAND AT NAINITAL

Criminal Misc Application No. 722 of 2024

21 March, 2025

Sartaj Hussain

.....Petitioner

Versus

Divisional Forest Officer, Forest Division

Ramnagar and another

.....Respondent

Presence:-

Mr. Rohit Kumar Gaur, learned counsel for the petitioner.

Mr. Deepak Bisht, Deputy A.G. for the State.

Hon'ble Vivek Bharti Sharma, J.

Present petition is filed under Section 528 B.N.S.S. to quash the summoning/cognizance order dated 25.09.2017 passed by learned Additional Chief Judicial Magistrate, Haldwani, District Nainital in Criminal Complaint Case No. 4650 of 2017 'Divisional Forest Officer, Forest Division Ramnagar, District, Nainital versus Lalit Singh and ors.' as well as entire criminal proceedings of the aforesaid criminal case.

2. Brief facts of the case are that on 27.12.2015, forester of Forest Division Fatehpur, Range Forest Division Ramnagar, District Nainital, upon patrolling in the forest area caught three accused persons alongwith vehicles i.e. tractor trolley and three motorcycles, which were indulged in illegal felling of the forest trees; that,



18 logs of pine wood are said to have been recovered from the possession of the accused persons; that, after registration of the H-2 report, a recovery memo was prepared by the forester of the concerned Forest Range; that, thereafter, the Inquiry Officer was appointed, who submitted a detailed inquiry report in respect of the said offence; that, during investigation the Investigating Officer had written a letter to Regional Transport Officer, Haldwani enquiring about the tractor no. alongwith trolley and the motorcycles involved in the said forest crime, in which, names of 04 persons were provided by the R.T.O. including the present petitioner's; that, pursuant to the information received through R.T.O., notice under Section 72 of the Forest Act was sent to the petitioner and he was directed to appear before the Inquiry Officer with all relevant documents of the vehicle; that, the petitioner never turned up before the Inquiry Officer; that, thereafter, the complaint case was filed in which the petitioner was showed to be the owner of motorcycle bearing registration no. UA 04 E 2497, which is the subject matter of the present petition; that, the summoning order dated 25.09.2017 is issued against the petitioner. Hence, this petition.

3. Learned counsel for the petitioner would submit that neither the petitioner is named in the



H-2 report nor the petitioner is the owner of the motorcycle bearing registration no. UA 04 E 2497, which has been confiscated by the forest team from the spot, whereas, the registration number of the vehicle of the petitioner is UA 04 A 2497, therefore, owing to the mere difference between the registration numbers of two vehicles in respect to the letters 'A' & 'E', the criminal proceedings have been initiated against the petitioner.

Counsel for the petitioner/accused would submit that the petitioner/accused is the owner of truck bearing Registration No. UA 04 A 2497, which has never been confiscated or seized by the forest team at any time. However, due to the erroneous conduct of the forest team, the name of the petitioner/accused has been mentioned in the complaint showing him as the owner of motorcycle number UA 04 E 2497, whereas the registration number of the petitioner's vehicle is UA 04 A 2497; that, the name of the petitioner has been shown in the inquiry report, which has been submitted erroneously by the Inquiry Officer and based on which, false and vexatious complaint was lodged against the petitioner, therefore, the entire proceedings are liable to be quashed.

4. Learned counsel for the petitioner would further submit that this Court vide order dated



12.11.2024, while staying the proceedings of the criminal case, had directed the State counsel to get proper instructions in the matter.

5. To this, learned State counsel would submit that due to the mistake made by the inadvertence and carelessness of the Investigating Officer and officials of the concerned Regional Transport Office, who had sent the report of the wrong vehicle than that of the alleged vehicle, that the notice under Section 72 of the Forest Act has been issued against the petitioner; that, the petitioner also never turned up before the Inquiry Officer nor he has clarified that the vehicle does not belong to him. Thus, relying upon the information given by the R.T.O. Office, Haldwani, the petitioner was made an accused in the present criminal proceedings and the court has proceeded on the complaint filed by the forest Department.

Learned State counsel also referred Paragraph No.11 of the objection in which it is stated that the name of the petitioner/accused came in the inquiry due to the wrong information sent by the RTO, Haldwani and further due to the non-responding of the petitioner/accused to the notice under Section 72 of the Forest Act.

6. Perused the record in the light of above submissions made by counsel for the parties.



7. In the recovery memo Annexure-1, the details of the vehicles confiscated, for use in the commission of forest crime have been shown, in which, one is the Motorcycle bearing the registration number U.A. 04 E 2497. It is the case of the petitioner that he is owner of the truck having registration no. U.A. 04 A 2497. It has been the case of petitioner throughout that the truck that is registered in the name of the present petitioner has not been seized by the forest authorities in respect of the commission of forest crime at any point of time. The number of the motorcycle as mentioned herein is registered in the record in the name of one Khushal Singh, while the truck is registered in the name of the petitioner.

It is admitted that the difference between the registration numbers of the vehicle pertains only to the letters 'A' and 'E' and the remaining numbers of the registration numbers of both the vehicles are the same. As per the petitioner, the petitioner brought this fact before the competent trial court, however, without paying any heed to the claim of the petitioner, bailable and non-bailable warrants were issued against the petitioner.

Moreover, no genuine or trustworthy evidence is brought that shows that the petitioner



2025:UHC:2028

is involved in the commission of the crime, thus, there appears to be gross illegality and perversity on the part of the forest officials in summoning the petitioner for the crime.

8. In the opinion of this Court, it is a fit case, where the inherent jurisdiction under Section 528 B.N.S.S. can be exercised.

9. Accordingly, the present petition under Section 528 B.N.S.S. is allowed. The entire criminal proceedings of the Criminal Complaint Case No. 4650 of 2017 pending in the court of learned Additional Chief Judicial Magistrate, Haldwani, District Nainital are hereby quashed *qua* the petitioner.

10. Pending applications, if any, stand disposed of accordingly.

(Vivek Bharti Sharma, J.)

21.03.2025

Mamta