



2025:UHC:11670

Judgment Delivered on:31.12.2025

Judgment Reserved on:09.12.2025

IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL

Criminal Misc.Application No.2182 of 2023

Anil Joshi

.....Applicant

Vs.

State of Uttarakhand and Another

.....Respondents

Presence:

Mr. B.S. Bhandari, learned counsel for the Applicant.

Mr. Bhaskar Chandra Joshi, learned AGA, for the State of Uttarakhand.

Hon'ble Ashish Naithani, J.

1. The present Criminal Miscellaneous Application under Section 482 of the Code of Criminal Procedure has been filed by the Applicant, Anil Joshi, seeking quashing of Charge Sheet No. 04 of 2023 dated 05.07.2023, the cognizance and summoning order dated 19.09.2023 passed by the learned Special Judge (Prevention of Corruption Act)/Second Additional District and Sessions Judge, Haldwani, District Nainital, and the consequential proceedings of Special Sessions Trial No. 49 of 2023, insofar as they relate to the Applicant.
2. The case originates from a written complaint dated 02.05.2023 submitted by the complainant, Rajendra Singh Mehta, before the Senior Superintendent of Police, Vigilance Establishment, Haldwani. In the complaint, allegations were levelled against one Dr. Tapan Kumar Sharma, posted as Additional Chief Medical Officer, to the effect that



illegal gratification was being demanded in connection with publicity programmes conducted under a government scheme.

3. On the said complaint, a preliminary enquiry was conducted, and thereafter permission was granted for laying a trap. Pre-trap proceedings were conducted on 08.05.2023 by the Vigilance Establishment.
4. On the same date, a trap was allegedly laid at the office of the Chief Medical Officer, Udham Singh Nagar. It is the State's case that when the complainant reached the said office, Dr. Tapan Kumar Sharma was stated to be attending a meeting, whereupon the present Applicant, who was working as an Accountant on a contractual basis in the Tuberculosis Department at the Old Hospital, Rudrapur, allegedly asked the complainant to hand over the demanded amount.
5. It is further alleged that on the instructions of Dr. Tapan Kumar Sharma, the complainant handed over a sum of ₹ 16,000 /- to the Applicant, which was subsequently recovered during the trap proceedings from a drawer beneath a table in the office.
6. Following the trap, FIR No. 03 of 2023 dated 08.05.2023 was registered under Section 7 of the Prevention of Corruption Act, 1988 at Police Station Vigilance Establishment, Haldwani.
7. After completion of the investigation, Charge Sheet No. 04 of 2023 dated 05.07.2023 was submitted against the Applicant and the co-accused. The learned Special Judge took cognizance of the offence on 19.09.2023 and summoned the accused persons to face trial in Special Sessions Trial No. 49 of 2023.
8. Aggrieved thereby, the Applicant has invoked the inherent jurisdiction of this Court under Section 482 CrPC seeking quashing of the proceedings insofar as they relate to him.



9. Learned counsel for the Applicant submitted that the State's case, even if accepted in its entirety, does not disclose the essential ingredients of an offence under Section 7 of the Prevention of Corruption Act, 1988. It was argued that the demand of illegal gratification is the sine qua non of the offence, and that there is no material whatsoever to show that any such demand was made by the present Applicant.
10. It was contended that the original complaint dated 02.05.2023 was directed exclusively against the co-accused, Dr. Tapan Kumar Sharma, and not against the Applicant. The Applicant was not named as a person who demanded illegal gratification, and his implication emerged only during the trap proceedings.
11. Learned counsel for the Applicant further submitted that the Applicant was merely an Accountant engaged on a contractual basis, whose tenure had already expired, and that he had no role or authority in the allotment of publicity programmes, release of payments, or grant of future contracts. It was argued that the Applicant did not occupy any position which could enable him to confer any official favour.
12. It was also urged that the alleged recovery does not satisfy the requirement of conscious possession, as the tainted money was not recovered from the Applicant's person but from a drawer beneath a table. The recovery, according to learned counsel, is further rendered doubtful by the statement of an independent witness recorded under Section 161 CrPC, who did not support the state version regarding recovery from the Applicant.
13. Learned counsel for the Applicant submitted that the state itself admits that the complainant had already received full payment for the publicity work prior to the alleged trap, thereby negating any plausible motive or occasion for demand of illegal gratification. The subsequent



theory of payment for securing future contracts was described as speculative and unsupported by any material.

14. It was lastly contended that the cognizance order has been passed in a mechanical manner, without examining whether the foundational ingredients of the offence were made out against the Applicant, and that continuation of the criminal proceedings would amount to abuse of the process of law.
15. Per contra, learned Additional Government Advocate opposed the application and submitted that the case arises out of a duly authorised and lawfully conducted trap by the Vigilance Establishment. It was argued that the recovery of tainted currency, duly matched with the pre-trap numbers, establishes a prima facie case against the Applicant.
16. Learned AGA contended that the Applicant acted as a conduit for the co-accused public servant and facilitated acceptance of illegal gratification on his behalf. It was submitted that the role attributed to the Applicant cannot be dissected at the threshold stage.
17. It was further argued that issues relating to demand, acceptance, credibility of witnesses, and validity of recovery are matters for trial and cannot be adjudicated in proceedings under Section 482 CrPC. On these premises, dismissal of the application was prayed for.
18. Heard learned counsel for the Parties and perused the records.
19. The inherent jurisdiction of this Court under Section 482 CrPC is to be exercised sparingly, with circumspection, and only to prevent abuse of the process of the Court or to secure the ends of justice. At the same time, it is equally well settled that where the uncontroverted allegations and the material collected during the investigation, taken at their face value, fail to disclose the essential ingredients of the offence



alleged, the High Court would be justified in interdicting the criminal proceedings at the threshold.

20. The Applicant has been charge-sheeted for an offence under Section 7 of the Prevention of Corruption Act, 1988. Demand of illegal gratification is the foundational and indispensable ingredient of the said offence. Mere recovery of tainted money, divorced from proof of demand, does not satisfy the statutory requirement. Acceptance or possession assumes relevance only after demand is proved. This principle permeates the entire scheme of the Act and governs the exercise of criminal jurisdiction in corruption cases.
21. A careful examination of the original complaint dated 02.05.2023 reveals that the allegations of demand were directed solely against the co-accused, Dr. Tapan Kumar Sharma, who was posted as Additional Chief Medical Officer. The complaint does not attribute any demand, overt or covert, to the present Applicant. The Applicant does not figure as a person who initiated, negotiated, or insisted upon any illegal gratification prior to the trap.
22. The case against the Applicant emerges only at the stage of the trap proceedings. Even there, the allegation is not that the Applicant demanded illegal gratification on his own behalf, but that he allegedly received the money on the instructions of the co-accused. The material placed with the charge sheet does not disclose any independent demand by the Applicant. In the absence of demand, the alleged role of receiving money, even if assumed to be correct, cannot by itself attract Section 7 of the Act.
23. The status and functional role of the Applicant further weakens the case. The Applicant was working as an Accountant on a contractual basis in the Tuberculosis Department, and the record indicates that his



contractual engagement had already expired. The state counsel does not dispute that the empanelment of art groups, allotment of publicity programmes, and release of payments were governed by departmental procedures and administrative authorities higher than the Applicant. No material has been placed to show that the Applicant was in a position to influence the award of contracts or confer any official favour.

24. The theory that the alleged gratification was intended to secure future contracts does not find reflection in the original complaint. Such a theory appears to have been developed subsequently during the investigation. Notably, the prosecution itself admits that the complainant had already received full payment for the publicity work prior to the trap. In such circumstances, the alleged motive for demand becomes inherently doubtful, particularly when no contemporaneous material supports the allegation of payment for future benefit.
25. The manner of recovery also assumes relevance at this stage, not for evaluating evidentiary sufficiency, but for assessing whether the basic ingredients of the offence are even *prima facie* made out. The tainted currency was not recovered from the personal possession of the Applicant but from a drawer beneath a table. The drawer is stated not to belong to the Applicant. Further, the statement of an independent witness recorded during the investigation does not lend unequivocal support to the version regarding conscious possession by the Applicant. While these aspects would ordinarily fall within the domain of trial, they acquire significance when the foundational element of demand itself is absent.
26. In the considered opinion of this Court, continuation of the criminal proceedings against the Applicant would amount to abuse of the process of the Court and would result in miscarriage of justice. The



2025:UHC:11670

inherent jurisdiction of this Court is therefore required to be exercised to prevent such abuse.

ORDER

The Criminal Miscellaneous Application under Section 482 CrPC is **allowed**.

Charge Sheet No. 04 of 2023 dated 05.07.2023, the cognizance and summoning order dated 19.09.2023 passed by the learned Special Judge (Prevention of Corruption Act)/Second Additional District and Sessions Judge, Haldwani, District Nainital, and the entire criminal proceedings of Special Sessions Trial No. 49 of 2023, arising out of FIR No. 03 of 2023 registered at Police Station Vigilance Establishment, Haldwani, District Nainital, for the offence punishable under Section 7 of the Prevention of Corruption Act, 1988, are hereby quashed insofar as they relate to the present Applicant.

The application stands disposed of accordingly.

(Ashish Naithani J.)

Dated:31.12.2025

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