



2025:UHC:1933

HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition Criminal No. 1346 of 2024

19 March, 2025

Ashok Kumar

--Petitioner

Versus

State of Uttarakhand and others

--Respondents

Presence:-

Mr. Rajendra Dobhal, learned Senior Advocate assisted by Mr. Suryakant Maithani, Advocate for the petitioner.

Mr. Akshay Latwal, learned Brief Holder for the State.

Hon'ble Vivek Bharti Sharma, J.

This writ petition under Article 226 of the Constitution of India has been filed with the following prayer:-

- “i) Issue a Writ, Order or direction in the nature of certiorari to quash the Case Crime/ FIR No. 0010/2024, U/S 420, 467, 468, 471 IPC., Police Station Kotwali Dehradun, District Dehradun (**Annexure No.1**) to this writ petition.*
- ii) Issue a Writ, Order or direction in the nature of mandamus commanding the respondent No. 2 not to arrest the petitioner in Case Crime/ FIR No.0010/2024, U/S 420, 467, 468, 471 IPC., Police Station Kotwali Dehradun, District Dehradun.*
- iii) Pass any other writ, order or direction, which this Hon'ble Court may deem fit and proper in the facts and circumstances of the*



case.

iv) Award the cost of the writ petition to the Petitioner.”

2. Brief facts for disposal of this writ petition are that FIR No.10 of 2024 under Sections 420, 467, 468, 471 of IPC, Police Station Kotwali Dehradun, District Dehradun was registered against the petitioner/accused on 03.01.2024 with the allegations, in brief, that on the complaint of Special Investigating Squad it was revealed that a Power of Attorney allegedly executed in favour of the petitioner/accused by someone named Sabarmal Agarwal was a forged document which was used and produced before the Registrar to execute sale deed.

3. Learned Senior Counsel for the petitioner/accused would submit that, as per Section 83 of the Indian Registration Act, 1908, for proceeding against the offence which comes in the knowledge of the Registrar, only a complaint case can be filed by him with permission of the Inspector General in the territory where that offence has been committed.

4. Learned Senior Counsel for the petitioner/accused would further submit that civil proceedings are also pending in the Court of the Senior Civil Judge, Dehradun challenging the Power of Attorney against the petitioner/accused by the alleged executor of



the Power of Attorney i.e. Sabarmal Agarwal, therefore, two proceedings, one civil and another criminal, cannot go together.

5. Learned Senior Counsel for the petitioner/accused would also submit that the Registrar is a *quasi-judicial* body as evident from Section 83(2) of the Indian Registration Act, 1908, therefore, the registration of the FIR in question is illegal and unsustainable in the eyes of law, hence, the whole investigation in pursuance of this FIR and filing of charge-sheet is vitiated and is liable to be quashed.

6. Learned counsel for the State would vehemently oppose the prayer made by learned Senior Counsel on the ground that there is no illegality and no violation of the law. He would further submit that a forged Power of Attorney was being used by the petitioner /accused for execution of the registration of the sale deed in the office of Registrar.

7. Perused the record in view of the submissions made above by the respective counsels. Section 83 of the Indian Registration Act, 1908 is reproduced herein below for the ready reference:

**“Section 83. Registering officers may
commence prosecutions.**

(1) A prosecution for any offence under this



Act coming to the knowledge of a registering officer in his official capacity may be commenced by or with the permission of the Inspector-General, the Registrar or the Sub-Registrar, in whose territories, district or sub-district, as the case may be, the offence has been committed.

(2) Offences punishable under this Act shall be triable by any Court or officer exercising powers not less than those of a Magistrate of the second class.”

8. It is amply clear that Section 83 of the Indian Registration Act, 1908 is applicable in the circumstances when any offence committed under the Indian Registration Act, 1908 comes in the knowledge of the Registering Officer only then the proceedings can be initiated. However, the present FIR is for the offences which are punishable under Sections 420, 467, 468, 471 of IPC and these are not the offences under the Indian Registration Act, 1908, therefore, Section 83 of the Indian Registration Act, 1908 is not applicable in this case.

9. In respect of second limb of the submissions made by learned Senior Counsel that two proceedings, one civil and another criminal, cannot go together and, therefore, the criminal case may be quashed is



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unsustainable. Moreover, the case is filed by the Sabarmal Agarwal against the present petitioner/accused that the Power of Attorney being used by the petitioner/accused is forged.

10. In view of the above, this writ petition lacks merit and the same is hereby dismissed *in limine*.

(Vivek Bharti Sharma, J.)

19.03.2025

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