



2026:UHC:509

Judgment Reserved on: 02.01.2026

Judgment Delivered on:10.01.2026

HIGH COURT OF UTTARAKHAND AT NAINITAL

HON'BLE SRI JUSTICE SUBHASH UPADHYAY

CRIMINAL MISC. APPLICATION (C482) NO.1150 OF 2015

Brahmcharini Samparpita and Others

...Applicants.

Versus

State of Uttarakhand and Another

...Respondents.

Counsel for the petitioner	:	Mr. Brahmchari Sudhanand, learned counsel for the applicants through V.C.
Counsel for the respondents	:	Mr. Deepak Bisht, learned Deputy Advocate General for the State of Uttarakhand.

JUDGMENT: (per Mr. Subhash Upadhyay, J.)

Heard learned counsel for the applicants and learned Deputy Advocate General for the State of Uttarakhand.

2. This C482 application has been filed with the following prayers:

"It is, therefore, most respectfully prayed that this Hon'ble Court may graciously be pleased to quash charge sheet dated 19-12-2013 and the impugned cognizance order dated 08-07-2014 passed by Judicial Magistrate, 1st Class, Srinagar Garhwal in Misc. case no. 47 of 2014 'State V/s Hemant Dhyani and others' U/s 147, 504, 506 I.P.C., P.S. Kotwali Srinagar, District Pauri Garhwal.

It is further prayed that this Hon'ble Court may graciously be pleased to stay the further proceedings of Misc. case no. 47 of 2014 'State V/s Hemant Dhyani and others' pending before the Court of learned Judicial Magistrate, 1st Class, Srinagar, District Pauri Garhwal otherwise the applicants shall suffer irreparable loss and injury, which cannot be compensated in any manner."

3. Learned counsel for the applicants submits that applicant no.1 and 2 are sadhvis (spiritual seeker) residing in an ashram near Ganga and are well known peace loving



citizens. They have been actively participating in the campaigns of save environment and save Ganga in last few years; that, applicant no.3 and 4 are the research scholars in Delhi; that, on 13.05.2013 on the auspicious day of Akshay Triteeya, applicants were performing puja at the Dhari Devi Temple when a group of anti-social elements shouting slogans in an aggressive manner gathered outside the temple and tried to enter the temple and instead of stopping these persons the police authorities asked the applicants to leave the temple; that, FIR was lodged by Shri Hemant Dhayni (in which applicants were witness); on 13.05.2013 at 15:45 against respondent no.2 and other persons which was registered as Case Crime No.18/2013; that, FIR was also lodged by Dr. Bharat Jhunjhunwala against respondent no.2 and others persons on 22.06.2012; though with regard to some other incident as the respondent no.2 and other persons were acting on behalf of GVK company; that, as a counterblast to the FIR lodged by Shri Hemant Dhyani (in which the applicants are witness), respondent no.2 also lodged FIR against Shri Hemant Dhyani and other persons on 13.05.2013 at 17:40 hrs which was registered as Case Crime No.19 of 2013; that, the learned Judicial Magistrate 1st Class, Srinagar took cognizance vide order dated 08.07.2014 against the applicants and the applicants have challenged the said cognizance order and the entire proceedings in the present C482 Application.



4. Learned counsel for the applicants submits that the summoning order is a cryptic order wherein no reasons have been assigned nor any *prima facie* opinion has been made for summoning the applicants.

5. Learned counsel for the applicants further submits that the present case is a case of counter blast as the FIR against respondent no.2 has been lodged prior in time by Shri Hemant Dhyani and the applicants have been implicated as they stood witness to the said incident.

6. He submits that against respondent no.2 also a charge-sheet was filed under Sections 147,323,504 and 506 IPC read with Section 34 of IPC and the cognizance order was passed against respondent no.2 in Case Crime No.18 of 2013.

7. He further submits that in Criminal Case No.46/2014, '*State Vs. Ravindra Silwal*' learned Judicial Magistrate 1st Class Srinagar, District Pauri Garhwal dealt with the entire incident in detail and also observed that for the same incident a case is also registered against the applicants.

8. Learned counsel for the applicants submits that due to the faulty investigation, respondent no.2 and the other accused were acquitted and the State has not filed any appeal against the said order passed on 14.11.2019 and as such the said order has attained finality.

9. Learned State Counsel, on written instructions, submits that no appeal against order dated 14.11.2019 has



been filed by the State and he also fairly concedes that the same incident which occurred on 13.05.2013 has been the subject matter of the said criminal case which has been discussed in detail by the learned Magistrate in its order dated 14.11.2019.

10. Heard learned counsel for the parties and perused the record.

11. Perusal of the record reveals that the incident of 13.05.2013 was also the subject matter of case no.46 of 2014 which has been decided on 14.11.2019. The said incident has been dealt with in detail by the learned Magistrate and it has been held that two FIRs for the same incident were filed one by Shri Hemant Dhyani (in which the applicants are the witness) and the second by respondent no.2.

12. The investigation for the said incident was carried out in which cognizance order has been passed against the applicants under Sections 147, 504, 506 of IPC and against respondent no.2 and other persons under Sections 147, 323, 504 and 506 IPC read with Section 34 IPC.

13. After discussing the entire incidence in detail, the learned Judicial Magistrate came to a conclusion that the investigation was faulty and the electronic evidence was not correctly collected. The operative portion of the order dated 14.11.2019 reads as under:-

“दोषमुक्ति का प्रमुख कारण विवेचक के द्वारा अपने विवेचना के मुख्य कर्तव्य का पालन



न करना जिस कारण वर्तमान मामले के चुटेल जी०डी० अग्रवाल एवं साक्षी अनुज जोशी व एस०एच०ओ० अनिल जोशी को आरोप पत्र में गवाह नहीं बनाया गया है और न ही जी०डी० अग्रवाल का मेडिकल परीक्षण कराया गया है। विवेचक के द्वारा विवेचना के दौरान इलेक्ट्रॉनिक साक्ष्य का संकलन भी नहीं किया गया है, जिसे वादी मुकदमा के द्वारा दौरान विचारण दाखिल किया गया है जो कि धारा 65बी भारतीय साक्ष्य अधिनियम के अनुपालन में न होने के कारण साक्ष्य में पठनीय नहीं है। यदि उक्त इलेक्ट्रॉनिक साक्ष्य का संकलन विवेचक द्वारा किया जाता तो निःसंदेह रूप से इस प्रकार की त्रुटि नहीं होती। पंचक द्वारा अभियुक्तगणों की शिनाख्त के सम्बंध में समुचित प्रक्रिया नहीं अपनाया जाना है।”

14. The said order dated 14.11.2019 has attained finality. In the considered view of the Court, subjecting the applicants to face trial for the same incident which has been investigated in which respondent no.2 and other persons have been acquitted, on account of faulty investigation, would amount to abuse of process of law. Even otherwise on reading of the FIR and the cognizance order, no ingredients under Section 147, 504 and 506 IPC are made out against the applicants.

15. In view of the above discussion, the Criminal Misc. Application under C482 Cr.P.C. is allowed. The impugned charge-sheet dated 19.12.2013, cognizance order dated 08.07.2014 as well as entire proceedings of Misc. Case No.47 of 2014, 'State Vs. Hemant Dhyani and Others' pending before the Court of learned Judicial Magistrate, 1st Class, Srinagar Garhwal are quashed qua the applicants.

16. As a sequel thereto, the miscellaneous applications, if any pending, shall stand closed.



2026:UHC:509

SUBHASH UPADHYAY, J.

Dt:10.01.2026

Sukhbant