

HIGH COURT OF UTTARAKHAND AT NAINITAL

Criminal Misc. Application No. 1533 of 2017

Nanda Ballabh Bhatt

.....Petitioner

Versus

State of Uttarakhand and Another

.....Respondents

Present:-

Mr. R.S. Sammal and Mr. P.S. Rawat, Advocates for the petitioner.

Mr. Pankaj Joshi, A.G.A. for the State.

Mr. Vipul Sharma, Advocate for the respondent no.2.

JUDGMENT

Hon'ble Ravindra Maithani, J. (Oral)

The challenge in this petition is made to the summoning order dated 30.10.2017, passed in Misc. Criminal Case No.56 of 2017, State of Uttarakhand v. Nanda Ballabh Bhatt ("the case"), by the court of Chief Judicial Magistrate, Pithoragarh.

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

3. It appears that the court of Chief Judicial Magistrate, Pithoragarh, required the Station House Officer ("the SHO"), Police Station Kotwali, District Pithoragarh, to produce all the records pertaining to the release of vehicles of that police station. The petitioner was the SHO of the Police Station Kotwali, District Pithoragarh, at the relevant time. It appears that the petitioner did not produce those records. Thereafter, the court directed the Inspector General, Kumaon Mandal Police, and the Senior Superintendant of Police, Pithoragarh, that an enquiry be conducted in the matter, and during the period of enquiry, he should not be given the charge of SHO, Police Station Kotwali, District Pithoragarh. The enquiry was conducted without shifting the petitioner as SHO, Police Station Kotwali, District Pithoragarh. Therefore, the court conducted the enquiry on its own, and in the impugned order held that despite

availability of the records pertaining to release of vehicles, they were not produced in the court. The court observed that it amounts to offence under Section 192 IPC, and, accordingly, the court proceeded to enquire into the matter under Section 340 of the Code of Criminal Procedure, 1973 ("the Code"), and passed the impugned order directing the petitioner to appear personally before the court. This order is impugned.

4. Learned counsel for the petitioner submits that no offence under Section 192 IPC is made out.

5. Learned counsel for the respondent no.2 submits that despite availability of the record, the record was not produced by the petitioner in the court.

6. Learned State Counsel submits that though the record was available in the police station, but it was not traceable at the relevant time. Subsequently, it was traced and placed before the court on 17.07.2017, prior to passing of the impugned order. He submits that, in fact, the Circle Officer Police, District Pithoragarh, had conducted an enquiry and had concluded so, and has recorded that the petitioner did not have any ill intention in not producing the record.

7. In the impugned order, the court has observed that despite availability of records, they were not produced before the court, which, according to the court, amounts to an offence under Section 192 IPC. Section 192 IPC is as follows:-

"192. Fabricating false evidence.—Whoever causes any circumstance to exist or makes any false entry in any book or record, or electronic record or makes any document or electronic record containing a false statement, intending that such circumstance, false entry or false statement may appear in evidence in a judicial proceeding, or in a proceeding taken by law before a public servant as such, or before an arbitrator, and that such circumstance, false entry or false statement, so appearing in evidence, may cause any person who in such proceeding is to form an opinion upon the evidence, to entertain an erroneous opinion touching any point material to the result of such proceeding is said "to fabricate false evidence".

8. A bare reading of Section 192 IPC reveals that it deals with fabrication of false evidence. Non production of record does not amount to fabrication of false record.

9. Having considered, this Court is of the view that under these facts and circumstances, no offence under Section 192 IPC is made out. Therefore, the impugned summoning order dated 30.10.2017, passed by the court in the case, is not in accordance with law. It deserves to be set aside.

10. The summoning order dated 30.10.2017, passed by the court in the case, is hereby quashed.

11. Accordingly, the petition is allowed.

(Ravindra Maithani, J)
24.04.2026

Ravi Bisht