2025:UHC:10013

Judgment reserved on: 10.11.2025

Judgment delivered on: 12.11.2025

HIGH COURT OF UTTARAKHAND AT NAINITAL

Criminal Misc. Appli. (C-482) No. 160 of 2017

Raj Narender Pal -------Petitioner

Versus

State of Uttarakhand and others

----------Respondents

Presence:-

Mr. Shashikant Shandilya, learned counsel for the applicant.

Mr. Deepak Bisht, learned Deputy Advocate General, for the State/respondent no.1 & 2.

Mr. Raghav Singhal, learned counsel holding brief of Mr. Piyush Garg, counsel for the respondent no. 3 & 4.

Hon'ble Mr. Subhash Upadhyay, J.

The present Criminal Misc. Application under Section 482 of the Code of Criminal Procedure, 1973, has been filed by the petitioner assailing the order dated 09.10.2015, passed by learned Judicial Magistrate, IInd, Haridwar, in Misc Application No. 114 of 2015, Raj Narender Pal vs. Islam and others, and the order dated 11.11.2016, passed by learned IIIrd Additional District and Sessions Judge, Haridwar in Criminal Revision No. 560 of 2015, Raj Narender Pal vs. State of Uttarakhand, and with the further prayer to direct the learned Magistrate to decide the application of the applicant filed under Section 156(3) Cr.P.C. on its merit.

2. Counsel for the applicant submits that the applicant sold his truck on 08.12.2014 to the respondent

no. 4 and the respondent no. 3 was the mediator in the said sale; that a notarize agreement for sale was prepared and it was agreed that the respondent no. 4 shall pay the balance installment of finance company and in the condition of failure of installment, a cheque no. 879283 was given to the applicant by the respondent no.4; that after purchasing the Truck the opposite party no. 4 did not pay any installment to the finance company and enjoyed the earning of the Truck; that the applicant after receiving the notice from Finance Company of the Truck deposited the cheque of respondent no.4, which was returned with the reason of signature differ and insufficient fund; that the respondent no. 4 with the collusion of respondent no.3 has cheated the applicant and neither returned the Truck nor paid the installment, which itself clarify the intention of the respondent nos. 3 & 4.

3. Learned counsel for the applicant further submitted that when no action was taken on the complaint filed by the complainant before the Police authorities, then an application under Section 156(3) Cr.P.C. was preferred before the learned Judicial Magistrate, IInd, Haridwar, which was dismissed on 09.10.2015 and the Revision filed against the said order was dismissed on 11.11.2016 by the learned IIIrd Additional District and Sessions Judge, Haridwar and aggrieved by the aforesaid Orders, present C-482 Petition has been filed.

4. Learned counsel for the applicant contends that the impugned orders have been passed on the premise that the applicant was having a civil remedy and,

as such, the criminal proceedings were not maintainable, however, both the Courts below have failed to consider that the civil remedy nowhere bars criminal liability, if *prima facie*, a criminal offence is made out against any person and if civil remedy is also available to the victim then both remedy can be availed together by the aggrieved person.

5. *Per contra*, learned counsel for the respondent-State as well as learned counsel for the private respondents submit that the dispute was of entirely civil in nature and the application filed under Section 156(3) Cr.P.C., was rightly rejected and the Revisional court was also right while rejecting the Revision as per law as for the civil remedy, the applicant cannot initiate criminal proceedings and that would amount to abuse of process of law.

6. Having heard learned counsel for the parties, and on perusal of the records, this Court is of the considered view that there is no infirmity in the order passed by learned Courts below. The dispute between the applicant and the private respondents was purely civil in nature and was covered by the terms and conditions of the agreement reached between the parties. Cogent reasons have been given by the Courts below for rejecting the claim of the applicant for initiation of criminal proceedings and this Court under the revisional jurisdiction under Section C482 Cr.P.C. does not find any perversity in the said findings recorded by the trial court below. Moreover, the Hon'ble Apex Court in catena of judgments has held that for the dispute which is purely, civil in nature, the initiation of criminal proceedings is an

abuse of process of law.

7. In the case of ***Ankul Singh vs. State of Uttar Pradesh and another***, in ***Criminal Appeal No. 4250 OF 2025*** (arising out of SLP (Crl.) No. 2682 of 2020) 2025 INSC 1153, Hon'ble Apex Court has held as under:

> "17. This Court has, in a long line of decisions, deprecated the tendency to convert civil disputes into criminal proceedings. In Indian Oil Corporation v. M/s. NEPC India Ltd., it was held that criminal law cannot be used as a tool to settle scores in commercial or contractual matters, and that such misuse amounts to abuse of process. The following paragraphs from the decision are apposite:
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> "9. The principles, relevant to our purpose are:
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> (i) A complaint can be quashed where the allegations made in the complaint, even if they are taken at their face value and accepted in their entirety, do not prima facie constitute any offence or make out the case alleged against the accused. For this purpose, the complaint has to be examined as a whole, but without examining the merits of the allegations. Neither a detailed inquiry nor a meticulous analysis of the material nor an assessment of the reliability or genuineness of the allegations in the complaint, is warranted while examining prayer for quashing of a complaint.
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> (ii) A complaint may also be quashed where it is a clear abuse of the process of the court, as when the criminal proceeding is found to have been initiated with malafides/malice for wreaking vengeance or to cause harm, or where the allegations are absurd and inherently improbable.
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> (iii) The power to quash shall not, however, be used to stifle or scuttle a legitimate prosecution. The power should be used sparingly and with abundant caution.
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> (iv) The complaint is not required to verbatim reproduce the legal ingredients of the offence alleged. If the necessary factual foundation is laid in the complaint, merely on the

ground that a few ingredients have not been stated in detail, the proceedings should not be quashed. Quashing of the complaint is warranted only where the complaint is so bereft of even the basic facts which are absolutely necessary for making out the offence.

(v) A given set of facts may make out:

(a) purely a civil wrong; or

(b) purely a criminal offence; or

(c) a civil wrong as also a criminal offence.

A commercial transaction or a contractual dispute, apart from furnishing a cause of action for seeking remedy in civil law, may also involve a criminal offence. As the nature and scope of a civil proceedings are different from a criminal proceeding, the mere fact that the complaint relates to a commercial transaction or breach of contract, for which a civil remedy is available or has been availed, is not by itself a ground to quash the criminal proceedings. The test is whether the allegations in the complaint disclose a criminal offence or not.

10. While on this issue, it is necessary to take notice of a growing tendency in business circles to convert purely civil disputes into criminal cases. This is obviously on account of a prevalent impression that civil law remedies are time consuming and do not adequately protect the interests of lenders/creditors. Such a tendency is seen in several family disputes also, leading to irretrievable break down of marriages/families. There is also an impression that if a person could somehow be entangled in a criminal prosecution, there is a likelihood of imminent settlement. Any effort to settle civil disputes and claims, which do not involve any criminal offence, by applying pressure though criminal prosecution should be deprecated and discouraged."

18. Similarly, in Inder Mohan Goswami and another v. State of Uttaranchal and others, it was emphasized that criminal prosecution must not be permitted as an instrument of harassment or private vendetta. In Ganga Dhar Kalita v. State of Assam, this Court again reiterated that criminal complaints

in respect of property disputes of civil nature, filed solely to harass the accused or to exert pressure in civil litigation, constitute an abuse of process.

19. Most recently, in Shailesh Kumar Singh @ Shailesh R. Singh v. State of Uttar Pradesh and others, this Court disapproved the practice of using criminal proceedings as a substitute for civil remedies, observing that money recovery cannot be enforced through criminal prosecution where the dispute is essentially civil. The Court cautioned High Courts not to direct settlements in such matters but to apply the settled principles in Bhajan Lal. The following paragraphs are relevant in this context:

> "9. What we have been able to understand is that there is an oral agreement between the parties. The Respondent No.4 might have parted with some money in accordance with the oral agreement and it may be that the appellant – herein owes a particular amount to be paid to the Respondent No.4. However, the question is whether prima facie any offence of cheating could be said to have been committed by the appellant.
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> 10. How many times the High Courts are to be reminded that to constitute an offence of cheating, there has to be something more than prima facie on record to indicate that the intention of the accused was to cheat the complainant right from the inception. The plain reading of the FIR does not disclose any element of criminality.
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> 11. The entire case is squarely covered by a recent pronouncement of this Court in the case of "Delhi Race Club (1940) Limited vs. State of Uttar Pradesh" reported in (2024) 10 SCC 690. In the said decision, the entire law as to what constitutes cheating and criminal breach of trust respectively has been exhaustively explained. It appears that this very decision was relied upon by the learned counsel appearing for the petitioner before the High Court. However, instead of looking into the matter on its own merits, the High Court thought fit to direct the petitioner to go for mediation and that too by making payment of Rs. 25,00,000/- to the 4th respondent as a condition

precedent. We fail to understand why the High Court should undertake such exercise. The High Court may either allow the petition saying that no offence is disclosed or may reject the petition saying that no case for quashing is made out. Why should the High Court make an attempt to help the complainant to recover the amount due and payable by the accused. It is for the Civil Court or Commercial Court as the case may be to look into in a suit that may be filed for recovery of money or in any other proceedings, be it under the Arbitration Act, 1996 or under the provisions of the IB Code, 2016. 12. Why the High Court was not able to understand that the entire dispute between the parties is of a civil nature.

13. We also enquired with the learned counsel appearing for the Respondent No.4 whether his client has filed any civil suit or has initiated any other proceedings for recovery of the money. It appears that no civil suit has been filed for recovery of money till this date. Money cannot be recovered, more particularly, in a civil dispute between the parties by filing a First Information Report and seeking the help of the Police. This amounts to abuse of the process of law.

14. We could have said many things but we refrain from observing anything further. If the Respondent No.4 has to recover a particular amount, he may file a civil suit or seek any other appropriate remedy available to him in law. He cannot be permitted to take recourse of criminal proceedings.

15. We are quite disturbed by the manner in which the High Court has passed the impugned order. The High Court first directed the appellant to pay Rs.25,00,000/- to the Respondent No.4 and thereafter directed him to appear before the Mediation and Conciliation Centre for the purpose of settlement. That's not what is expected of a High Court to do in a Writ Petition filed under Article 226 of the Constitution or a miscellaneous application filed under Section 482 of the Code of Criminal Procedure, 1973 for quashing of FIR or any other criminal proceedings. What is expected of the High Court is to look into the averments and the allegations levelled in the FIR along with the other

material on record, if any. The High Court seems to have forgotten the well settled principles as enunciated in the decision of this Court in the "State of Haryana & Others vs. Bhajan Lal & Others" Reported in 1992 Supp.(1) SCC 335."

7. In view of the above, there is no illegality or infirmity in the order passed by the Court below in rejecting the application filed by the applicant under Section 156(3) Cr. P.C. and the Revisional Court's order also does not suffer from any perversity.

8. The C-482 Petition fails and is accordingly, dismissed.

(SUBHASH UPADHYAY, J.)

Dated: 12.11.2025
Kaushal