

REPORTABLE

HIGH COURT OF UTTARAKHAND AT NAINITAL
Criminal Misc. Application No.135 of 2024
(U/s 482 Cr.P.C.)

Rakesh MehraApplicant

Versus

State of Uttarakhand & othersRespondents

Mr. U.K. Uniyal and Mr. T.A. Khan, Senior Advocates assisted by Mr. Mohd. Shafy, Advocate for the applicant.

Mr. S.C. Dumka, AGA with Ms. S.B. Dobhal, Brief Holder for the State.

Ms. Maninder Acharya, Senior Advocate assisted by Mr. Lalit Miglani, Advocate for respondent no.3.

With

WRIT PETITION (CRIMINAL) NO.159 OF 2023

Anushka Arora and anotherPetitioners

Versus

State of Uttarakhand and othersRespondents

Mr. T.A. Khan, Senior Advocates assisted by Mr. Mohd. Shafy, Advocate for the applicant.

Mr. S.C. Dumka, AGA with Ms. S.B. Dobhal, Brief Holder for the State.

Ms. Maninder Acharya, Senior Advocate assisted by Mr. Lalit Miglani, Advocate for respondent no.3.

Judgment reserved on 14.07.2025

Judgment delivered on 05.08.20205

Hon'ble Pankaj Purohit, J. (Oral)

Both these matters are connected with each other and controversy involved is also one and the same arising out of the common FIR, hence these are being decided by this common judgment. For the sake of brevity, facts of C482 No.135 of 2024 are taken into consideration.

2. By means of this C482 application, the applicant is seeking quashing of cognizance order dated 19.12.2023 passed by Judicial Magistrate-II, Haridwar in Criminal Case No.3419 of 2023 pertaining to offence under Sections 420, 506, 120-B IPC along with quashing of FIR No.177 of 2022 registered at P.S. Kankhal, District Haridwar under aforesaid sections.

3. The facts in brief are that an FIR was lodged against the applicant and his two daughters at the behest of respondent no.3 alleging therein that the applicant owes certain sum of money to respondent no.3 and when he was asked to repay the same, he threatened respondent no.3 that if he will ask for any money, he will be killed. It is also alleged that the applicant transferred some advance amount paid by respondent no.3 for delivery of certain herbs in the account of his daughters, (Petitioner in WPCRL No.159 of 2023) so that, no legal proceeding could be initiated against him for recovery of the said amount.

4. The learned counsel for the applicant submits that the applicant is the owner of two firms namely, M/s Shivaji Global Exports and Shiva Mahadev Overseas which are engaged in importing and exporting of edible goods from different countries. He further submits that the

firms of the applicant were engaged in business relationship with respondent no.3 between the period of 2008 to 2018. He submits that during the said period multiple products were demanded by respondent no.3 which were accordingly delivered by the applicant. He further submits that initial dispute arose when in 2017, respondent no.3 asked for supply of Crude Sun Flower Oil which was even imported by the applicant but as respondent no.3 did not eventually purchase the said oil; applicant suffered a huge loss of Rs.4 crore. He further submits that respondent no.3 i.e. Patanjali Ayurveda Ltd. engages in selling of Swadeshi Products which are granted some tax exemptions and in 2022, when the applicant asked respondent no.3 for issuance of "C" forms so that he could claim tax exemptions, but even after repeated reminders these were not delivered by respondent no.3. Because of which, a notice was issued by the tax department on 29.08.2022 stating therein that if the applicant does not submit the required form he will have to pay taxes to the tune of Rs.7,75,96,555/- and could also face blacklisting. As a result of this notice, the applicant was forced to write a letter dated 05.05.2022 to respondent no.3 stating therein that if they do not issue him form "C" for the goods supplied to them the applicant will be

forced to bring out the malpractices i.e. selling of imported goods in the name of Swadesi Products, adopted by respondent no.3 in front of the general public as well the Government of India. He further submits that the impugned FIR was lodged immediately after this e-mail as the respondent no.3 was frightened that if they do not engage the applicant in false cases he may expose the business malpractices of respondent no.3. He further submits that respondent no.3 impleaded the married daughters of the applicant to trouble and coerce him so that he does not bring out the truth of respondent no.3. He submitted that money was transferred in the account of the daughters in account of family settlement and the said money was not proceed of crime therefore he did no illegality in transferring any amount of money to his daughters.

5. The learned counsel for the applicant vehemently argues that the applicant and respondent no.3 are engaged in business transaction for more than a decade and there are no pending dues towards respondent no.3 and even if, for a moment, it is presumed that there are any dues it is purely a civil transaction which has been given criminal colours by the respondent no.3. He further submits that there is also an arbitration agreement between the parties in case, a civil dispute arises between them. He further

submits that from the bare perusal of the FIR, it is quite clear that no ingredients of Section 415 or 420 IPC are proved against the applicant. He further submits that since respondent no.3 is a powerful entity the Investigation Officer has overlooked the fact and evidences and various e-mails sent by respondent no.3 to the applicant in which respondent no.3 has made no averment of any pending dues and has asked the applicant to reconcile the matter one of which was even sent a few days before lodging of FIR which clearly show purely business transaction between the parties and no elements of any crime and has mechanically submitted the charge-sheet, on which, learned Judicial Magistrate has without applying judicial mind issued summons against the applicant. The learned counsel also placed in record multiple documents which clearly show that the parties were engaged in business transaction for a long time.

6. The learned counsel for the respondent no.3 relying upon her counter affidavit submits that the case in hand is based purely on factual disputes the truth of which can only be found out after a proper trial. She also submits that the Hon'ble Supreme Court in multiple instances has opined that the power of quashing should be sparingly used. She also submits that the e-mail sent in reply to the threatening e-mail of applicant

did not specify about any pending dues as, as a matter of fact, it is the policy of the company of respondent no.3 to restrict its replies only to the averments made in the respective e-mail. She also argued that the applicant has not come with clean hands before this Court and is a proclaimed offender in respect of the impugned case.

7. Per contra, the learned State Counsel submits that the impugned charge-sheet was filed by the I.O. after a detailed investigation and after collecting documentary evidences, bank statements, report of chartered accountant and statements of witnesses under Section 161 Cr.P.C. in furtherance of which the learned Judicial Magistrate has a rightly taken cognizance against the applicant. He also submitted that initially notice under Section 41A Cr.P.C. was sent to the applicant but as he did not cooperate with the investigating agencies an NBW was issued against him and eventually, he was declared a proclaimed offender.

8. The applicant in his rejoinder affidavit submitted that the entire case of prosecution is resting upon a business transaction which commenced in 2009 and indeed in 2018. During the said period or even after that there was no complaint by respondent no.3 regarding non supply or insufficient supply of goods nor any

letter or email was sent at the behest of respondent no.3 alleging the same. He further submits that the Investigation Officer and the learned Judicial Magistrate failed to take notice of the fact that there was a long business transaction between the parties and the main ingredient of Section 420 IPC i.e. dishonest intention from the beginning was missing. He further submits that lodging of FIR within few days of the email in which the applicant threatened the respondent no.3 to provide form "C" otherwise he will expose respondent no.3 is self explanatory of the false FIR. He further stated that he is not coming back to India to cooperate in investigation only because of the apprehension that as respondent no.3 is a powerful entity he can be roped in other false cases as well. He also relied on the Hon'ble Apex Court recent judgment pronounced in the case of Naresh Kumar vs. State of Karnataka, 2024 SCC OnLine 268 .

9. Having heard the learned counsel for the parties and on perusal of the material available on record, this Court is of the opinion that there is a long series of business transaction between the parties which lasted for over a decade during which no allegation of short supply of goods, siphoning of money were ever made by the respondent no.3 against the applicant. Moreover, there are multiple e-mails of the respondent no.3

addressed to the applicant in which reconciliation is being proposed, few of which were sent only a few days before the lodging of the FIR and one e-mail was sent even after lodging of FIR. The perusal of these e-mails, other documents showing business transactions between the parties, the e-mail sent by the applicant seeking handing over the form "C" is sufficient to show that the parties were in a civil transaction and the mens rea essential to bring out Section 420 IPC was never there. The FIR was lodged only after the applicant threatened dire consequences if form "C" was not handed over to him which clearly shows that the FIR was lodged due to ulterior motives. Although, this Court is cognizant of the fact that Section 482 Cr.P.C. provides extraordinary powers which should only be used in rarest of rare cases and quashing of criminal matters in nascent stage should be avoided but this Court is of the considered opinion that in the case in hand the dispute between the parties is essentially of a civil nature which has been given criminal colour by respondent no.3 and therefore, under these circumstances this Court is of the considered view that it is a fit case where inherent powers of Section 482 Cr.P.C. should be used to stop the abuse of process of law and to secure the ends of justice.

10. In the case of ***Paramjeet Batra v. State of Uttarakhand*** reported in **(2013) 11 SCC 673**, the Hon'ble Apex court recognized that although the inherent powers of a High Court under Section 482 of the Code of Criminal Procedure should be exercised sparingly, yet the High Court must not hesitate in quashing such criminal proceedings which are essentially of a civil nature. This is what was held:-

“While exercising its jurisdiction under Section 482 of the Code the High Court has to be cautious. This power is to be used sparingly and only for the purpose of preventing abuse of the process of any court or otherwise to secure ends of justice. Whether a complaint discloses a criminal offence or not depends upon the nature of facts alleged therein. Whether essential ingredients of criminal offence are present or not has to be judged by the High Court. A complaint disclosing civil transactions may also have a criminal texture. But the High Court must see whether a dispute which is essentially of a civil nature is given a cloak of criminal offence. In such a situation, if a civil remedy is available and is, in fact, adopted as has happened in this case, the High Court should not hesitate to quash the criminal proceedings to prevent abuse of process of the court.”

11. Moreover, it is trite that criminal proceedings cannot be taken recourse to as a weapon of harassment. It has time and again been held that where a dispute which is essentially of a civil nature, is given a cloak of a criminal offence, then such disputes can be quashed, by exercising the inherent powers under Section 482 of the Cr.P.C.

12. In view of what has been stated

hereinabove, both the matters are allowed. Resultantly, the cognizance order dated 19.12.2023 passed by Judicial Magistrate-II, Haridwar in Criminal Case No.3419 of 2023 pertaining to offence under Sections 420, 506, 120-B IPC along the entire proceedings arising out of FIR No.177 of 2022 registered at P.S. Kankhal, District Haridwar under the aforesaid sections, is hereby quashed. FIR shall also stand quashed.

(Pankaj Purohit, J.)
05.08.2025

Ravi