

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Crl) No(s).390/2007

(From the judgement and order dated 22/12/2006 in CRLMA No.  
1027/2006 of The HIGH COURT OF UTTARANCHAL AT NAINITAL)

SACHIN KUMAR NAIN Petitioner(s)

VERSUS

STATE OF UTTARAKHAND & ORS. Respondent(s)

(With appln(s) for stay and office report)  
(FOR FINAL DISPOSAL)

Date: 12/07/2010 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE D.K. JAIN  
HON'BLE MR. JUSTICE H.L. DATTU

For Petitioner(s)

Mr. Vishwajit Singh,Adv.  
Mr. Ritesh Agrawal, Adv.  
Mr. Siddharth Sengar, Adv.  
Mr.Abhindra Maheshwari, Adv.  
Mr. Pankaj Singh Bisht, Adv.

For Respondent(s)

Mr. Sunil Kr. Sharma, Adv.  
Mr. Dharmendra Kumar Sinha,Adv.  
Mr. Jitender Dewan, Adv.  
Mr. Jatinder Kumar Bhatia ,Adv

UPON hearing counsel the Court made the following  
O R D E R

Leave granted.

The appeal is dismissed in terms of the signed order.

(VINOD LAKHINA)  
Court Master

(N.B.DHYANI)  
Court Master

(Signed Order is placed on the file)  
IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 1251 OF 2010  
[Arising out of Special Leave Petition (Criminal)  
No. 390 of 2007]

SACHIN KUMAR NAIN ...APPELLANT

VERSUS

STATE OF UTTARAKHAND & ORS. ...RESPONDENTS

ORDER

Leave granted .

This appeal, by special leave, is directed against order dated 22nd December, 2006 passed by the High Court of Uttaranchal at Nainital in Criminal Miscellaneous Application No. 1027 of 2006. By the impugned order, the High Court has disposed of a petition filed by respondents 2 to 4 under Section 482 of the Code of Criminal Procedure, 1973 (for short "the Code") questioning the validity of order dated 7th October, 2006 passed by the Magistrate summoning them to face trial for offences punishable under Sections 420, 467, 468 and 471 of the Indian Penal Code, 1860, with the following observations:

...2/-

:2:

"Without expressing any opinion on the merits of the controversy, it will be open for the applicants to raise their objections before the magistrate concerned. The applicants are relegated back to the magistrate concerned for the purposes of raising the objections."

The short grievance of the appellant - complainant is that once a Magistrate has taken cognizance of an offence and has issued summons to the accused, there is no provision in the Code enabling the accused to file objections against the summoning order.

In our view, there is no merit in the stand of the appellant. Apart from the fact that at the stage of framing of charge, it is open to an accused to try and convince the Court, not to frame charge, depending on the nature of a trial, an accused can also move application for discharge at any stage of

the trial.

No ground is made out for our interference.

The appeal is dismissed accordingly.

....., J.  
(D.K. JAIN)

....., J.  
(H.L. DATTU)

NEW DELHI  
JULY 12, 2010