

!
ITEM NO.40

COURT NO.6

SECTION II

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).1158/2012

(From the judgment and order dated 17/10/2011 in CRMA No. 651/2009 of The HIGH COURT OF UTTARAKHAND AT NAINITAL)

HEM CHANDRA CHAUDHARY

Petitioner(s)

VERSUS

D.N.YADAV & ANR

Respondent(s)

(With office report)

Date: 16/09/2013 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.K. PATNAIK
HON'BLE MR. JUSTICE JAGDISH SINGH KHEHAR

For Petitioner(s)

Mr. Sanjay Parikh, Adv.
Ms. Mamta Saxena, Adv.
Mr. Sudarshan Singh Rawat, Adv.

For Respondent(s)

Ms. Madhurima Tatia, Adv.

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

Leave granted.	
The appeal stands disposed of in terms of the signed order.	
[KALYANI GUPTA]	[SHARDA KAPOOR]
COURT MASTER	COURT MASTER

[SIGNED ORDER IS PLACED ON THE FILE.]
IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 1464 OF 2013
[ARISING OUT OF SLP(CRL) NO. 1158 OF 2012]

HEM CHANDRA CHAUDHARY

.....
VERSUS

APPELLANT

D.N. YADAV & ANR.

..... RESPONDENTS

O R D E R

Leave granted..

2. Heard learned counsel for the parties.

3. By the impugned order dated 17th October, 2011 passed in Criminal Miscellaneous Application No. 651 of 2009 under Section 482 of the Code of Criminal Procedure, the High Court of Uttarakhand has quashed the order of cognizance dated 4th August, 2009 passed by the Judicial Magistrate,

Ranikhet in Complaint Case No. 144 of 2008.

4. We find that by the order of cognizance dated 4th August, 2009, the Judicial Magistrate had taken cognizance against the Estate Officer Dr. D.N. Yadav and Junior Engineer Daleep Singh Bisht. So far as Dr. D.N. Yadav is concerned, he had filed an application under Section 482 Cr.P.C. and we find on a reading of the FIR dated 29th October, 2008 filed by the complainant, that there is no allegation made by the complainant against Dr. D.N. Yadav so as to make out any offence by him. The High Court was, therefore, justified in quashing the order of cognizance against Dr. D.N. Yadav.

5. However, so far as the Junior Engineer Daleep Singh Bisht is concerned, we find from the FIR dated 29th October, 2008 that there were allegations which prima facie disclose that offence has been committed by him. That apart, Junior Engineer Daleep Singh Bisht had not filed any application under Section 482 Cr.P.C. and the High Court could not have quashed the order of cognizance against him.

6. We, therefore, allow this appeal and modify the order dated 17th October, 2011 passed in Criminal Miscellaneous Application No. 651 of 2009 passed by the High Court and restore the order of cognizance against Daleep Singh Bisht. The observations made in this order will not influence the trial court in the proceedings subsequent to the cognizance.

The appeal stands disposed of in the terms aforesaid.

.....J
[A.K. PATNAIK]

.....J
[JAGDISH SINGH KHEHAR]
NEW DELHI
SEPTEMBER 16, 2013.