

(2013) 02 UK CK 0011

Uttarakhand High Court

Case No: Writ Petition No. 183 of 2013

Bhola Singh @ Shivam
Chaudhary

APPELLANT

Vs

State of Uttarakhand and Others

RESPONDENT

Date of Decision: Feb. 26, 2013

Citation: (2013) 1 NCC 697

Hon'ble Judges: Umesh Chandra Dhyani, J

Bench: Single Bench

Advocate: Abhishek Srivastava and Mr. Neeraj Garg, for the Appellant; M.A. Khan,
Learned A.G.A. for the Respondent Nos. 1 and 2, for the Respondent

Final Decision: Dismissed

Judgement

Umesh Chandra Dhyani, J.

The petitioner has moved this criminal writ petition for issuing a writ in the nature of certiorari quashing the first information report dated 18.12.2012, registered as Case Crime No. 412 of 2012 under Sections 376, 366A, 368 and 506 IPC, P.S. Kotwali Dehradun, District Dehradun. A missing report was lodged by father of the victim against unknown person on 18.12.2012 in reporting outpost Dhara, PS Kotwali, which was registered as case crime No. 412 of 2012, as regards offences punishable under Sections 376, 366A, 368 and 506 IPC. It was alleged in the missing report that informant's daughter, aged 14 years, went to school on 18.12.2012 at 11:30 a.m. but did not return home. Criminal law was set into motion on the basis of the said first information report.

2. Learned counsel representing the State submitted that missing girl Darshita Kukreja was recovered in the house of Sunder Singh in village Achour in District Sambhal, where she was wrongfully confined. Sunder Singh is the father of present petitioner Bhola Singh alias Shivam Chaudhary.

3. Learned counsel for the petitioner, on the other hand, submitted that Bhola Singh was not named in the first information report and when the statement u/s 164 Cr.P.C. was taken, victim stated that she had been to Moradabad with Shivam (present petitioner) on her own volition. During the course of her statement, she did not say anything against the present petitioner. Learned counsel further submitted that on the basis of such statement u/s 164 Cr.P.C., learned Sessions Judge, Dehradun was pleased to grant bail to Sunder Singh, father of Bhola Singh alias Shivam Chaudhary. It is also averred in the petition that there is no evidence to suggest that the present petitioner committed the offence as alleged against him.

4. Having heard learned counsel for the parties and after perusal of the papers on record, this Court is not inclined to issue a writ for quashing the impugned first information report. It is not a fit case, in which the writ court should exercise its jurisdiction under article 226 of the Constitution of India. Therefore, the criminal writ petition is dismissed summarily.

5. Learned counsel for the petitioner thereafter made an innocuous prayer that the bail application of Bhola Singh alias Shivam Chaudhary should be directed to be disposed of expeditiously.

6. Keeping in view the fact that the petitioner's father Sunder Singh was granted bail by learned Sessions Judge vide order dated 16th January, 2013 and further keeping in view the fact that the prosecutrix/victim did not cast any aspersion against the present petitioner in her statement u/s 164 Cr.P.C., it is hereby directed that if the petitioner surrenders before the Court concerned and moves an application of bail, his bail application shall be heard and decided as expeditiously as possible, without unreasonable delay. With the above observations, the writ petition is disposed of finally at the admission stage itself.