

Eshan Ullah Vs. State of Uttarakhand and Others

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Court : Uttaranchal

Decided On : Sep-06-2010

Judge : Dharam Veer, J.

Acts : Indian Penal Code (IPC) - Section 420, 467, 468, 471, 120(B), 504, 506;

Appeal No. : CRIMINAL WRIT PETITION NO.644 OF 2010

Appellant : Eshan Ullah

Respondent : State of Uttarakhand and Others

Judgement :

1. By means of this writ petition, the petitioner has prayed to issue writ of certiorari quashing the impugned FIR dated 18.6.2010 lodged by the respondent no.4 as Case Crime No.187/2010 u/s 420/467/468/471/120- B/504/506 IPC at PS Patel Nagar, District Dehradun.
2. Heard learned counsel for the parties and perused the entire material on record.
3. In nutshell the case of the prosecution is that respondent no.4 lodged an FIR stating therein that he is a partner of the firm Mec Gear 16 Doon Cooperative Industrial Area, Patel Nagar, Dehradun which deals in supply of dress, shows, jackets etc. of Indian Army and other private firms. The petitioner Ehsan Ullah is the owner of M/s East West Tanners, Kanpur.

4. The complainant gave a cheque no.199258 dated 11.6.2010 for Rs.2.00 lacs to the petitioner in lieu of supplying the shoes and that cheque was sent through courier service. On 15.6.2010 when the complainant obtained his statement of accounts, he came to know that the by fabrication on the said cheque, the petitioner has withdrawn Rs.20.00 lacs instead of Rs.2.00 lacs by adding a ZERO. When the father of complainant enquired about the same from the petitioner on 15.6.2010 at about 11:30 AM, he uttered filthy abuses and also threatened to his life.

5. Learned counsel for the petitioner argued that the petitioner has been falsely implicated in the above case. On the contrary, Sri Ramji Srivastava, learned counsel appearing for respondent no.4 drew attention of the Court towards the counter affidavit filed on behalf of respondent no.4 wherein the averments made in the writ petition have been denied. Further attention of the Court is drawn to Paragraph 3(XIX) wherein it is stated that the further enquiries made by the deponent/complainant from different ends concerning Bank of Baroda, it has come to the knowledge that officials of Bank of Baroda reported the matter to Reserve Bank of India. The RBI at their own took initiative and called upon the Vigilance Section of the Bank to conduct a preliminary enquiry and report to RBI. The Assistant General Manager/Chief Manager (Vigilance) in reference to a letter of RBI on the subject of reporting of fraud cases informed the RBI Department of Banking Supervision, Mumbai vide their letter dated 26.6.2010 that “the payee of the cheque has made the alteration in the cheque which is quite visible to the naked eye” and the said report has been annexed as Annexure CA7 filed along with the counter affidavit.

6. After considering the entire facts and circumstances of the case and upon hearing learned counsel for the parties as well as on perusal of FIR and other documents particularly the report dated 26.6.2010 annexed as Annexure CA7 to the supplementary affidavit on record and also seeing the gravity of the offence, I am of the view that at this stage, prima facie offences punishable u/s 420/467/468471/120-B/504/506 IPC are made out against the petitioner and the petition is liable to be dismissed. The writ petition is dismissed summarily.