

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.1425/2024
(Arising out of SLP(C) No.26906/2018)

BHARAT BHUSHAN GUPTA

Appellant(s)

VERSUS

THE STATE OF UTTARAKHAND & ORS.

Respondent(s)

O R D E R

1. Leave granted.
2. Heard learned counsel for the parties at some length.
3. The short facts of this case relate to a complaint made by the appellant herein alleging that the Police Officer-respondent no.4 (R4) had wrongfully arrested him on 26.05.2010 in a complaint against him by a third party. On the basis of the allegations that the arrest is *mala fide*, the complainant approached the State Police Complaint Authority. The Authority, by its order dated 30.06.2011, allowed the complaint and the State Government also confirmed the findings of the Authority and forwarded it to the DGP, Uttarakhand. Thereafter, a show cause notice dated 07.09.2012

was issued to the Police Officer-R4.

4. The show cause notice dated 07.09.2012 and the Authority's order dated 30.06.2011 were challenged by the Police Officer-R4 before the High Court in a writ petition. The High Court allowed the writ petition under an impression that the Criminal Case against the appellant was pending. The High Court reasoned that if the criminal case is pending against the appellant, the appellant cannot initiate an inquiry against the Police Officer-R4.

5. At this very stage, we may clarify that some amount of confusion arose by virtue of the following paragraphs in the Order dated 20.03.2018 impugned before us.

"The impugned order dated 30.6.2011 has been Criminal Case No.135 of 2009 was pending against the petitioner.

Accordingly, the writ petition is allowed. Impugned order dated 30.06.2011 and consequential order dated 07.09.2012 are quashed and set aside."

6. The High Court later clarified its own order on 07.01.2019 to the following effect:-

"In the light of the aforesaid averments as made in the application, para 6 of the order dated 20th March, 2018, as quoted above is corrected and to be read as "the impugned order dated 30th June, 2011 has been passed without jurisdiction, since criminal case No.1352 of 2010 was pending against the respondent No.4

Accordingly, the Correction Application

No.11 of 2019 stands allowed. Order dated 20.3.2018 may be treated to be corrected/modified to that extent."

7. Thus, the confusion with respect to the case number of the criminal case is resolved.

8. Having examined the matter in detail, two things are very clear. First, the said criminal case No. 1352 of 2010 against the appellant ended in an acquittal on 05.09.2017 itself. The High Court is completely wrong in assuming that a criminal case was pending. We therefore set aside the judgment and order of the High Court.

9. Secondly, the appellant contends that irrespective of the pendency of the criminal case, there was no occasion for the High Court to interfere against the orders when the State Police Complaint Authority sought to examine the matter and issued show cause notice to the Police Officer-R4. This argument is not addressed by the High Court at all.

10. For the reasons stated above, we set aside the judgment of the High Court and remand the matter back to the High Court for re-consideration and for passing appropriate orders. The High Court shall give opportunity to all the parties and dispose of the writ petition as expeditiously as possible.

11. Needless to say, all contentions remain open for the parties to raise and contest.

12. The appeal stands disposed of accordingly.

.....J.
(PAMIDIGHANTAM SRI NARASIMHA)

.....J.
(ARAVIND KUMAR)

NEW DELHI;
January 30, 2024

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 26906/2018

(Arising out of impugned final judgment and order dated 20-03-2018 in WPSS No. 1355/2012 passed by the High Court Of Uttarakhand At Nainital)

BHARAT BHUSHAN GUPTA

Petitioner(s)

VERSUS

THE STATE OF UTTARAKHAND & ORS.

Respondent(s)

Date : 30-01-2024 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE PAMIDIGHANTAM SRI NARASIMHA
HON'BLE MR. JUSTICE ARAVIND KUMAR

For Petitioner(s) Mr. Abhimanyu Bhandari, Adv.
Mr. Harshit Khanduja, Adv.
Ms. Shreya Arora, Adv.
Ms. Nidhi, AOR
Mr. Syed Saifullah, Adv.
Mr. Sarthak Arora, Adv.
Mr. Mohit Giridhar, Adv.

For Respondent(s) Mr. Ankur Prakash, AOR
Mr. Ashutosh Kumar Sharma, Adv.
Ms. Priyanka Singh, Adv.

Mr. Amit Pawan, AOR

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

Leave granted.

Heard learned counsel for the parties at some length.

The appeal stands disposed of in terms of the signed order.

Pending application(s), if any, stands disposed of.

(RASHMI DHYANI PANT)
COURT MASTER (SH)

(NIDHI WASON)
COURT MASTER (NSH)

(signed order is placed on the file)