

(2010) 04 J&K CK 0045
In the Jammu And Kashmir High Court
Case No : 561-A Cr.P.C. No. 45 Of 2008

Bhagwan Singh and Ors.

APPELLANT

Vs

State and Ors.

RESPONDENT

Date of Decision : 23-04-2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 161, 173, 561A
Ranbir Penal Code, 1989 — Section 109, 147, 302, 451

Citation : (2010) 04 J&K CK 0045

Hon'ble Judges : Sunil Hali, J

Bench : Single Bench

Advocate : Surinder Kour, Gagan Basotra, D.S Parihar, Advocates appearing for the Parties

Judgement

FIR No.8 of 2008, is stated to have been registered against the petitioners under Sections 302/109/451 and 147 RPC. In pursuance to the said

FIR, report under Section 173 Cr.P.C., has been filed before the trial court. Petitioners through the medium of present petition have sought

quashment of the proceedings pending against them before the trial court invoking jurisdiction of this court under Section 561A Cr.P.C.

The ground for seeking quashment of the proceedings is that the names of the petitioners were not mentioned in the FIR nor the same were

revealed by the witnesses in the report under Section 161 Cr.P.C. It is contended by the petitioners that initially they were cited as witnesses to

depose against the accused persons involved in the case which they refused to do so. It is stated that in order to pressurize the petitioners, they

have been falsely implicated in the present case. I have heard learned counsel for the parties.

As noticed above, report under Section 173 Cr.P.C., has been filed before the trial court and according to the learned counsel for the parties, the

matter is yet to be taken up for framing of the charge. Petitioners, thus, have an appropriate remedy to agitate all the issues regarding their

noncomplicity with the accused persons in the commission of the crime at the time of framing of the charge. That occasion is yet to come and the

petitioners will be well within their rights to bring all these facts to the notice of the court below.

The proceedings before this court in the present set of circumstances would be uncalled for the reason that the power of this court to interfere in

the present proceedings arises only if there is no other remedy available to the accused under the Code. It is only to meet the ends of justice and to

ensure that there is no abuse of process of law that the power has been conferred upon this court under Section 561A of the Code of Criminal

Procedure. When the petitioners have an appropriate remedy before the trial court to argue on the charge, then, the present remedy, as indicated

above, cannot be invoked.

In view of the above, I do not find any ground to interfere in the present proceedings. This petition, accordingly, shall stand dismissed. The

petitioners, however, would be free to agitate the matter before the trial court at the time of framing of charge.

Parties to appear before the trial court on 14th of May'10.