

(2020) 07 RAJ CK 0233

In the Rajasthan High Court

Case No : Criminal Miscellaneous (Petition) No. 791 Of 2020

Danish Afroj

APPELLANT

Vs

State Of Rajasthan

RESPONDENT

Date of Decision : 06-07-2020

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 155(2), 156(1), 482
Indian Penal Code, 1860 — Section 186, 189, 332, 353

Citation : (2020) 07 RAJ CK 0233

Hon'ble Judges : Satish Kumar Sharma, J

Bench : Single Bench

Advocate : Liyakat Ali, Ramesh Choudhary

Final Decision : Dismissed

Judgement

1. This Petition under Section 482 Cr.P.C. has been filed for quashing of FIR No.43/2020 registered at Police Station Anta, District Baran for the offence under Sections 186, 189, 332 and 353 of IPC.
2. Heard learned counsel for both the sides and perused the material made available on record.
3. Learned counsel for the petitioner submits that the accused- petitioner is quite innocent, she has been falsely implicated in the case. No injury whatsoever has been caused by the petitioner to the lady Constable. No non-bailable case is made out, at the most offence under Section 186 of IPC may be said to be made out. The Police is not conducting the investigation in fair manner, thus the Petition should be allowed and the impugned FIR be quashed.
4. Learned Public Prosecutor has opposed the Petition.

5. Hon'ble Supreme Court in the case of State of Haryana And Ors. Vs. Bhajan Lal And Ors.: 1992 (supp (1) SCC 335, has laid down the following

guide lines for quashing of FIR, which read as under:

102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated

by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent extracted and reproduced

above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process

of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently

channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myraid kinds of cases wherein such power should be exercised.

1. Where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety

do not prima- facie constitute any offence or make out a case against the accused;

2. Where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence,

justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section

155(2) of the Code;

3. Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the

commission of any offence and make out a case against the accused;

4. Where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by

a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code;

5. Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever

reach a just conclusion that there is sufficient ground for proceeding against the accused;

6. Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is

instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party;

7. Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.

103. We also give a note of caution to the effect that the power of quashing a criminal proceeding should be exercised very sparingly and with circumspection and that too in the rarest of rare cases; that the court will not be justified in embarking upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR or the complaint and that the extraordinary or inherent powers do not confer an arbitrary jurisdiction on the court to act according to its whim and caprice.

6. Without expressing any opinion on merits of the case, suffice it to say that from bare perusal of the FIR, it reveals that the accused-petitioner refused service of the process. She made an attempt to snatch the warrant from the lady Constable and she used force against her, thus it cannot be said that on the basis of averments of FIR no commission of cognizable offence has been made out, therefore, no condition of quashing of FIR as prescribed in the case of Bhajan Lal (supra) stands satisfied. Hence, this Court is not inclined to quash the proceedings. However, learned counsel for the petitioner has raised doubts regarding fairness of the investigation, therefore, it is made clear that the petitioner may submit an appropriate representation containing her grievances before Investigating Officer or Higher Authorities for their consideration to ensure fair investigation.

7. With the above observations, the Petition stands dismissed.