
(2010) 03 RAJ CK 0006

In the Rajasthan High Court

Case No : Criminal Miscellaneous Petition No. 12 of 2010

Gopal Bijoriwal

APPELLANT

Vs

State of Rajasthan

RESPONDENT

Date of Decision : 03-03-2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 279, 337, 338

Citation : (2011) 6 RCR(Criminal) 2401 : (2010) 4 RLW 3023

Hon'ble Judges : Mahesh Bhagwati, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Mahesh Bhagwati, J.—By way of this criminal misc. petition filed u/s 482 of Cr.P.C, the petitioner has prayed to set aside the impugned order dated 21st July, 2009 rendered by the Chief Judicial Magistrate, Baran and Quash the FIR No. 744/2008 of Police Station Kotwali, District Baran.

2. Having heard the learned Counsel for the parties and carefully perused the relevant material on record, it is noticed that one FIR No. 715/2008 came to be lodged by the complainant Gopal Bijoriwal in Police Station Kotwali, District Baran for the offences under Sections 279 and 337 of IPC. It is also noticed that pertaining to the same occurrence one Cross FIR No. 744/2008 for the offences under Sections 279 and 337 also came to be lodged on 22nd December, 2008. Having travelled a long through many different Investigating Officers, this case is now being investigated by Mr. A.U. Siddiqui Police Inspector CID (CB) Range Cell, Kota.

3. Learned Counsel for the petitioner has impugned order dated 21st July, 2009 whereby the Chief Judicial Magistrate, Baran handed over the case to the Investigating Officer for further investigation.

4. Learned Counsel for the petitioner canvassed that the case was being

investigated under the pressure of Home Minister as also Senior Officers of the Police Department. Albeit, the learned Counsel for the petitioner has advanced this argument but not even a shred of evidence has emerged on record to corroborate his version. It has consistently been held by the Hon"ble Apex Court in umpteen cases that the Judicial Magistrate having jurisdiction has got powers to send the case for further investigation to the concerned Police Station. Usually, the investigation of the case changes different hands only when the investigation of the case is not made fairly, impartially and honestly by the investigating Officer concerned. If, on any complaint made by any side, the Minister of Home affairs intervenes and transfers the investigation of the case from one officer to another officer or from Police Station to CID (CB), it does not lead to infer that the Minister concerned is interested in the case. In fact, being Home Minister, it is his duty to weigh the request of the aggrieved party and pass such an order which may lead the path to just and fair investigation and redress the grievance of the aggrieved party: To transfer any investigation from one agency to another agency or from one officer to another office is well within competence of Minister concerned. Similarly, the learned Chief Judicial Magistrate, Baran released the file of the case to the Investigating Officer directing further investigation and it was also well within his jurisdiction to do so. The impugned order is not found to have suffered from any infirmity. The Judicial Magistrate having jurisdiction is competent enough to send a case for further investigation wherein the final report un-occurred is given.

5. Learned Counsel for the petitioner vehemently argued and contended that the Police lodged four FIRs with regard to one occurrence. When he was asked to tell the numbers of FIRs, he could tell only two numbers viz. 714/2008 and 744/2008 registered in the offences u/s 279 and 338 of IPC at Police Station Kotwali. Later on, it was revealed that these two FIRs are albeit with regard to the same occurrence but they have been lodged by two different parties. Petitioner Gopal Bijoriwal is the complainant of FIR No. 715/2008, whereas he is an accused of FIR No. 744/2008. Both the cases are pending investigation, which is likely to complete. Thus, the argument of learned Counsel for the petitioner in respect of registering four FIRs by the Police for one occurrence is found to be totally baseless and groundless.

6. In view of above discussion, the order dated 21st July, 2009 is found to be just and proper and suffers from no infirmity and the same does not warrant any interference.

7. So far as the First Information Report No. 744/2008 of Police Station Kotwali, District Baran is concerned, though it is borne out of the same incident but in this FIR liability to cause the accident has been fastened on the petitioner. It goes without saying that the investigation of any criminal case is the exclusive domain of police department and the courts are not required to intervene therein. The powers u/s 482 of Cr.P.C. are sparingly invoked merely to prevent the abuse of process of any court or to secure the ends of justice. In my opinion the FIR is

required to be quashed only when it does not disclose the commission of any cognizable offence. The facts of the instant case are not such, which do not disclose the commission of a cognizable offence. The Investigating Officer should be given full freedom to investigate a case fairly and impartially so as to render justice with both the parties.

8. For the reasons stated above, the criminal misc. petition filed u/s 482 of Cr.P.C. being bereft of any substance or merit deserves to be dismissed at the threshold and the same stands dismissed accordingly.