
(1987) 02 RAJ CK 0016

In the Rajasthan High Court

Case No : Criminal Miscellaneous Petition No. 632 of 1986

Gopal Prasad

APPELLANT

Vs

State of Rajasthan

RESPONDENT

Date of Decision : 17-02-1987

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482

Citation : (1987) RLW 747 : (1987) 1 WLN 655

Hon'ble Judges : G.M. Lodha, J

Bench : Single Bench

Judgement

Guman Mal Lodha, J.—Having heard Mr. Bagdi learned Counsel for the petitioner and Mr. Purohit learned Public Prosecutor, it appears that on 23-9-1986 the directions of the Chief Ministers were conveyed to the Superintendent of Police, Bharatpur for investigation of this case.

2. Mr. Purohit after perusal of the police record submits that even now the SI of PS Kumhar is investigating the case This is a very unintelligible shocking administrative lapse in not obeying the directions of the Chief Minister.

3. Mr. Purohit assures and undertakes that the Director General of would ensure that the investigation is done by some senior officer from Bharatpur instead of SHO, Kumhar for this offence.

4. In para 10 the petitioner has submitted that the Director General of Police has sent an order to the local police not to arrest the Rai Sikha, but I find that there is no such order on the police file.

5. On a thoughtful consideration of the entire matter, I feel that non-compliance of the directions of the Chief Minister without any plausible explanation by the police should not be allowed to go unnoticed. Appropriate action is called for against the officers who defied the order, because the petitioner has alleged that he cannot get justice from the local police of Kumhar in FIR No. 233/85, and the Chief Minister was keen to ensure fair investigation.

6. The Director General of Police should, therefore, not only ensure compliance of the order of the Chief Minister immediately but further find out as to who is responsible for non-compliance of the order dated 23-9-86 and take appropriate action against him so that confidence is created that justice would be done and further administrative functioning is streamlined and it is ensured that no one flouts the order of the Chief Minister and acts as a super Chief Minister in the administration of police.

7. Let a copy of this order be sent to the Chief Minister as well as the Director General of Police, the Government Advocate and the Superintendent of Police, Bharatpur. The SHO, Kumhar is restrained from conducting investigation in this case and the Director General of Police, Jaipur is directed to entrust it to some senior officer of Bharatpur Police and further ensure the arrest of those who according to the investigation are found liable to be arrested.

8. The allegation of the petitioner that the Director General of Police has sent a written order for not arresting Rai Sikhs is equally unfortunate, because it has not been substantiated on record and such allegation should not be made lightly as it undermines the authority to the Apex officer of the police.

9. The prayer for handing over the investigation to the CBI cannot be accepted because when the Chief Minister of the State himself is keen to ensure fair investigation and justice to the citizens of the State, it is primarily for him to decide at an appropriate stage that the local police can or cannot deliver goods. Normally the court cannot sit as an appellate forum over the wisdom of the Government headed by the Chief Minister unless malafides are shown.

10. The present one is a case where the Chief Minister of the State has shown utmost respect and keenness for ensuring fair investigation and intervened at the right time at the request of the petitioner. If the subordi-officers have let him down by non-compliance of his orders, it is expected that they would be dealt with, with firm hand, so that fair investigation is ensured and future lapses by recurrence of such defiant attitude by the police against the Chief Minister is not repeated.

11. The petition u/s 482 Cr. PC is accepted to the above limited extent only, but the main prayer for entrusting the case to CBI the is rejected.