

(2023) 02 RAJ CK 0071

In the Rajasthan High Court

Case No : S.B. Criminal Miscellaneous (Petition) No. 2798 Of 2018

Isha Ram And Others

APPELLANT

Vs

State Of Rajasthan And Others

RESPONDENT

Date of Decision : 17-02-2023

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 107, 166, 482

Citation : (2023) 02 RAJ CK 0071

Hon'ble Judges : Kuldeep Mathur, J

Bench : Single Bench

Advocate : S.S. Rathore, Gaurav Singh, J.L. Nagda

Final Decision : Dismissed

Judgement

Kuldeep Mathur, J

The present petition has been filed under Section 482 of the Code of Criminal Procedure for quashment of the FIR No.65/2018 dated 09.08.2018 registered at P.S. Bekariya, Udaipur.

Learned counsel for the petitioners submitted that the impugned FIR dated 09.08.2018 has been lodged for an incident, which took place on 21.02.2018 and the delay in lodging the FIR is sufficient to quash the same.

Learned counsel further submitted that for the quarrel, which took place on 21.02.2017, an FIR was lodged on 22.02.2018 by one Shri Motiram and petitioner Devaram and proceedings under Sections 107 and 166 Cr.P.C. were initiated. It is also submitted that the impugned FIR has been lodged by the police under influence and only with a view to harass and humiliate the petitioners.

Per contra, learned Public Prosecutor and the learned counsel for the complainant submitted that in the quarrel, which took place between the parties on 21.02.2018, the complainant-respondent No.2 was inflicted head injury by the

petitioner and consequent thereto, he remained hospitalized and to substantiate this fact, various medical reports have been shown to the Court.

Learned Public Prosecutor further submitted that the police has also investigated the matter and prima-facie allegations levelled against the petitioners have been found to be proved.

Learned Public Prosecutor relied upon the judgment dated 05.01.2018 rendered by Hon'ble the Supreme Court in the case of Dineshbhai Chandanbhai Patel Vs. State of Gujarat & Ors. [Criminal Appeal No.12/2018] and submitted that this Court cannot act as an investigating agency under the inherent powers under Section 482 Cr.P.C.

In the considered opinion of this Court, the Court cannot act as an Investigating Agency nor can exercise its powers under Section 482 Cr.P.C. for quashing an FIR only on the ground of delay, particularly when prima-facie charges have been found to be proved by the Investigating Agency against the petitioners.

The medical reports placed before the Court are sufficient to draw an inference of the fact that in the incident, which took place on 21.02.2018, the complainant-respondent No.2 has received serious injuries and, therefore, the FIR lodged against the petitioners cannot be quashed at this stage.

In view of the aforesaid, I do not find any merit in this petition and the same is, therefore, dismissed.

The petitioners are, however, at liberty to raise all the grounds at an appropriate stage.