

(1987) 12 RAJ CK 0015

In the Rajasthan High Court

Case No : Criminal Revision Petition No. 258 of 1986

Jagdish and Others

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 11-12-1987

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 169
Penal Code, 1860 (IPC) — Section 323

Citation : (1988) 1 RLW 227 : (1988) 1 WLN 541

Hon'ble Judges : Jasraj Chopra, J

Bench : Single Bench

Judgement

J. Chopra, J.—The revision is directed against the order of the learned Munsif and Judicial Magistrate, Sirohi dated May 15, 1986 whereby the learned Magistrate, while rejecting the final report given by the Police after investigation, has taken cognizance against the accused-petitioners Jagdish, Dalpat, Maina, Meena and Kanchan u/s 323, IPC. It is alleged that before these orders were passed accepting or rejecting the final report, the complainant put in appearance through this counsel and he was heard.

2. Mr. Singhvi appearing for the accused-petitioners has submitted that when a final report is submitted by the Investigating Officer after investigation and if that final report is to be rejected and cognizance is to be taken against some persons then for the ends of justice, these persons have also a right to be heard and cognizance should be taken against them only after affording them an opportunity of hearing. In this respect, he placed reliance on a decision of this Court in Hardev Singh Sandhu Vs. State of Rajasthan and Others, wherein a learned single Judge of this Court observed that if the complainant is heard on his protest petition against the acceptance of the final report and if the Magistrate feels that cognizance should be taken against certain persons, it is in the interest of justice that they may also be heard and they can only be heard, if a notice is given to them. In this case, the cognizance has been taken without giving a notice to the accused-petitioners.

3. I, therefore, accept this revision, quash the order of the learned Munsif and Judicial Magistrate. Sirohi dated May, 15, 1986 and remand the case back to him with this direction that if he proposes to take cognizance against the accused persons, he must give them a notice and afford them an opportunity of hearing is to be confined to the point as to whether the report u/s 169 Cr.PC is to be accepted or not and if cognizance has to be taken then against whom and transmit record no further.