
(2011) 07 RAJ CK 0002

In the Rajasthan High Court

Case No : Civil Special Appeal (W) No. 454 of 2008

Kailash Chand Mishra

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 04-07-2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 173
Penal Code, 1860 (IPC) — Section 120B, 420, 447, 467, 471

Citation : (2012) 3 RLW 2434

Hon'ble Judges : Arun Mishra, C.J.;Sandeep Mehta, J

Bench : Division Bench

Advocate : Paker Farooq, for the Appellant;

Final Decision : Dismissed

Judgement

Hon"ble Mehta, J.—The aforementioned special appeal has been preferred by appellant Kailash Chand Mishra challenging the order dated 3-9-2007, passed by Single Bench, in S.B. Civil Writ Petition No. 8464/2002, whereby the writ petition was dismissed. It may be mentioned here that as many as 25 writ petitions, presumably on a similar issues were heard and decided by the Single Bench by the impugned order. The case of the appellant is that he was being prosecuted in a large number of FIRs one after the other on the same issues and with the same, allegations. In the writ petition, the petitioner has impugned FIRs No. 661/1995, 310/1999, 191/1999, and criminal complaint, Anexure-4, 7, 8, and 10 respectively. As per the learned counsel for the appellant these criminal cases are virtually nothing but repetition of each other, and as per the counsel for appellant, subsequent FIRs on the same allegations cannot be registered against an accused, in absence of extraordinary circumstances. Learned counsel has placed reliance on T.T. Antony Vs. State of Kerala and Others, to give substance to his contentions.

2. We have carefully considered the arguments advanced on behalf of the appellant and carefully perused the material available on record.

3. At the outset it may be noted that the assertion of the counsel for the appellant that he is being prosecuted for the same allegations in several cases one after the other, is patently absurd and unfounded. The FIR No. 661/1995 (Annexure-4) was registered way back in the year 1995 for the offences u/s 420 IPC, and Section 203 of Rajasthan Municipalities Act, 1959. The FIR No. 310/1999 (Annexure-7) was registered for the offence u/s 447 IPC. Admittedly, as per the counsel for the appellant, the result of investigation of FIR has been filed in the said F.I.Rs. The annexure-8, is not a FIR, as claimed by the appellant, instead is the result of investigation of FIR No. 310/1999. The annexure-10 is a complaint filed against the appellant in the year 2002 for the offence under Sections 447, 120B, 420, 467, 471, and 472 IPC. Even, it has been admitted by the learned counsel for the appellant that the two F.I.Rs. being F.I.R. No. 661/95 and F.I.R. No. 310/99 have already been investigated and reports under Sec. 173 Cr.P.C. have been filed in these F.I.Rs. The appellant has already challenged the impugned F.I.Rs./ complaint by way of different petitions before this court as well as before the lower courts.

4. Having lost his earlier attempts to thwart the valid prosecution, the appellant has approached this Court in its writ jurisdiction for quashing of the criminal proceedings.

5. In view of the above circumstances, there is no valid ground to accept the contention of learned counsel for the appellant that he is being prosecuted repeatedly for the same offences. Furthermore, the present special appeal arising out of the rejection of writ petition filed by petitioner is clearly an abuse of process of court. The petitioner having already approached the criminal courts, and having failed in his attempt to scuttle the prosecution, has now approached this court in writ jurisdiction, which cannot be permitted by any stretch of imagination. It is clear that the appellant is some how trying to scuttle the valid prosecutions launched against him, by one means or the other.

6. The ratio indicated in T.T. Antony Vs. State of Kerala and Others, is not applicable to the facts of the present case, since the earlier and the subsequent F.I.Rs. are not based on the same set of allegations. The learned Single Bench has not committed any illegality in dismissing the writ petition.

7. Therefore, this Court is inclined to take serious view of the matter, and while dismissing the special appeal, we impose a cost of Rs. 10,000/- on appellant for having abused the process of court. We also direct the concerned trial court, before which the impugned cases against the appellant are pending, to immediately try and dispose of the cases arising out of the impugned F.I.Rs. and complaint preferably within a period of six months. Cost if realised, shall be paid to the Legal Services Authority, Jaipur. Consequently, the special appeal is, hereby, dismissed. The stay application also stands dismissed.