
(1991) 02 RAJ CK 0059

In the Rajasthan High Court

Case No : Criminal Miscellaneous Petition No. 189 of 1989

Lal Ram and Others

APPELLANT

Vs

The State of Rajasthan and Another

RESPONDENT

Date of Decision : 14-02-1991

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 120B, 406, 419, 420, 423

Citation : (1991) WLN 87

Hon'ble Judges : B.R. Arora, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

B.R. Arora, J.—This miscellaneous petition is directed against the order dated March 13, 1989, passed by the Sessions Judge, Merta, by which the learned Sessions Judge partly allowed the revision petition filed by the petitioners.

2. Prema Ram, on September 6, 1985, lodged a First Information Report at the Police Station, Makrana, against Pancha Ram, Lala Ram, Jodha Ram, Sukh Ram, Mohini, Roopa Ram and Mangi Lal for the offence under Sections 419, 420, 423, 406 and 120B of the Indian Penal Code. The police, after necessary investigation, presented the Final Report in the matter. The learned Munsif and Judicial Magistrate, First Class, Makrana, by his order dated October 28, 1985, did not accept the Final Report and took cognizance against the accused under Sections 423 and 120B, IPC and issued process. Dissatisfied with the order dated October 28, 1985, passed by the learned Munsif and Judicial Magistrate, Makrana, taking cognizance against the accused, the accused preferred a revision-petition before the learned Sessions Judge, Merta. The learned Sessions Judge, by his order dated March 13, 1989, allowed the revision petition filed by the accused in part and discharged the accused Pancha Ram for the offences under Sections 423 and 120B IPC, as according to the learned Sessions Judge, no case under Sections 423 and 120B IPC is made-out against the accused Pancha Ram. But so far as

the other accused are concerned, he maintained the order passed by the learned Magistrate taking cognizance against the petitioners. It is against this order that the present petition u/s 482 Cr.P.C. has been filed.

3. I have heard the learned Counsel for the petitioners, the learned Public Prosecutor and the learned Counsel for the respondent No. 2, and perused the orders passed by the Courts below, as well as the record of the case.

4. After perusal of the record, I am of the opinion that the order passed by the learned Courts below cannot be said to be, in any way, perverse or illegal.

5. At the time of taking the cognizance, the Court has only to see that whether from the evidence of the witnesses and the documents on record, any prima facie case to proceed-with against the accused is made-out. If there is a prima facie evidence to proceed-with against the accused then Court can take cognizance. If the accused, against whom the cognizance has been taken, have any valid defence available to them, then that can be decided by the trial Court at the appropriate stage. As the order, taking the cognizance is an exparte order, passed by the learned lower Court without giving any opportunity of hearing to the accused, therefore, if the accused have any grievance against the order passed by the learned lower Court then they can agitate their grievances and raise objections before the learned Magistrate and the learned Magistrate will consider all those objections raised by the accused. If after hearing the arguments the Court is of the opinion that no case is made-out then it may discharge the accused-petitioners. But the cognizance taken by the learned Magistrate cannot be interfered with or quashed by this Court under its inherent powers at this stage.

6. Consequently, the miscellaneous petition, filed by the petitioners, has got no force and is hereby dismissed.