
(2000) 03 RAJ CK 0003
In the Rajasthan High Court
Case No : Civil Writ Petition No. 1432 of 1996

Munna Khan

APPELLANT

Vs

State of Rajasthan and Another

RESPONDENT

Date of Decision : 09-03-2000

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 313

Citation : (2000) 3 WLN 266

Hon'ble Judges : Gyan Sudha Mishra, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Gyan Sudha Misra, J.—The petitioner had filed this writ petition in the year 1996 with the prayer that the investigation of FIR No. 46/96 and FIR No. 47/96 registered at Police Station Suket in the District of Kota as contained in Annexures-1 & 2 respectively should be handed-over to the Central Bureau of Investigation who should be directed to register a regular First Information Report against respondent tyo.2 Shri Rajeev Datta, Station House Officer of Police Station Suket District, Kota, who was posted there when the aforesaid FIRs were lodged. The petitioner admittedly is an accused in FIR No. 47/96, since he was alleged to be a member of the gang which had created commotion as a result of which the police firing took place at Suket in the District of Kota. The petitioner's further prayer was that the FIR No. 46/96 which has been lodged against one Khaju and FiR No. 47/96 in which the petitioner Munna Khan is also an accused alongwith others should be quashed and the States Government should give adequate compensation to the victims of the illegal acts committed by respondent No. 2 Station House Officer, Shri Rajeev Datta.

2. It appears that the petitioner prima facie made out a case in his favour to the extent that the FIR No. 47/96 may be a false case registered at the instance of the SHO of Suket in which the petitioner was illegally implicated and the firing in the area infact took place on account of the high-handedness and misbehaviour

of the police in the vicinity, on the relevant date for which the FIR No. 47/96 was registered. Relying on this version, a learned Single Judge of this Court granted stay of arrest of the petitioner but allowed the investigation of the two FIRs to proceed. In course of time, it is complained that nothing whatsoever took place further in the case as there was no break through in the investigations of the two FIRs. It is their is further complaint that the whole incident ought to have been investigated by the Central Bureau of Investigation since the local police was not acting fairly and impartially. As already stated they had also the grudge that the FIR which they tried to lodge against the police personnel at Suket, who were posted during relevant time, should also have been registered and this angle also should have been investigated by the police. This matter thus has been hanging ever the year 1996 without any progress in the matter.

3. Ultimately in the year 2000, it has been stated on behalf of the petitioner that even as on date, the police has not been investigating the matter in order to determine as to whether the police acted fairly in the matter at Suket when the incident of firing took place and, therefore, initially it was prayed that the matter should be investigated by the CBI or in the alternative the police itself should be asked to investigate fixing the liability of firing on any person, who was responsible for such action. It may be noted that the petitioner himself is no more than an accused in FIR No. 47/96 but he claims to be a public spirited person of the locality and that prompted him to lodge FIR against the police personnel and since it was not registered, he had to move this Court by filing this writ petition.

4. The learned Government Advocate Shri Ajay Purohit has endeavoured hard to explain that the petitioner at the relevant time merely wanted to save his skin from the case which was lodged against him and if at all it was only Khaju, who was injured and he could at best nurse any grudge in the matter against the police and could move this court. He has further stated that the Magisterial enquiry was conducted into the firing incident on 19.2.1996 by the Additional District Collector-cum Additional District Magistrate, Kota who has categorically arrived at a finding that that the police was compelled to open fire on account of violent behaviour of the mob due to which the situation had turned volatile. It is thus obvious that the grudge of the petitioner for holding an independent enquiry has already been met with by the State Government as a Magisterial enquiry has already been conducted into the matter which report is also produce before this Court. In view of this report, I see no justification for handing over the investigation of the matter to the CBI or any other agency other than the police which is seized of the matter. Besides this, the petitioner will also be examined under Sections 313 of the Cr.P.C. regarding his false implication where he can state the counter version of the case and even otherwise a writ petition is not required to be entertained for quashing the FIR lodged for offence lodged under the IPC.

5. Thus there is no justification to entertain this writ petition. The writ petition

under the circumstances is dismissed as infructuous, in view of the Magisterial enquiry already concluded in regard to the incident.

6. A request has been made on behalf of the petitioner that the arrest of the petitioner in FIR No. 47/96 had been stayed by this Court which is operating for the last four years and therefore, some breathing period should be left to the petitioner in order to seek any other alternative remedy for protecting himself from arrest. In view of his request and in view of the fact that the petitioner has been enjoining the stay for the last four years, it is ordered that he will not be arrested for a further period of two weeks to enable him to seek any other remedy for the appropriate relief.

7. Subject to this liberty the writ petition is dismissed as infructuous.