
(2004) 04 RAJ CK 0025

In the Rajasthan High Court

Case No : Criminal Miscellaneous Petition No. 638 of 2001

Pradeep and Others

APPELLANT

Vs

State of Rajasthan and Another

RESPONDENT

Date of Decision : 06-04-2004

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 156(3), 473, 482
Penal Code, 1860 (IPC) — Section 147, 148, 323, 427, 451

Citation : (2005) CriLJ 1056

Hon'ble Judges : N.N. Mathur, J

Bench : Single Bench

Advocate : Sandeep Mehta, for the Appellant; D.D. Kalla, Public Prosecutor and G.M. Khan, for the Respondent

Final Decision : Allowed

Judgement

N.N. Mathur, J.—By way of instant petition u/s 482 of the Code of Criminal Procedure, the petitioners seek to quash order dated 11-9-2001 passed by Addl. Chief Judicial Magistrate No. 3, Jodhpur, whereby he accepted the application filed by complainant-respondent No. 2 u/s 473, Cr.P.C. and has condoned the delay and taken cognizance against the petitioners for offence under Sections 147, 148, 451, 427 and 323 of IPC.

2. The second respondent Shankar Lal submitted a complaint in the Court of Addl. Chief Judicial Magistrate No, 3, Jodhpur with respect to the incidents alleged to have taken place on 7-12-1988, 14-12-1988 and 15-12-1988. The complaint was sent for investigation u/s 156(3), Cr.P.C. A case was registered at Police Station, Mahamandir, Jodhpur as FIR Case No. 228/88. The police registered the case for offence under Sections 147, 148, 323, 451 and 457, IPC. The police, after investigation, submitted a Final Report on 10-11-1989. At this stage, it is relevant to state that one Om Prakash, the brother of second respondent Shankar Lal also filed a complaint with respect to the same incidents on the same day i.e. on 20-1-1989 in the Court of the Addl. Chief Judicial

Magistrate. On said complaint, a report was sought from the SHO, Police Station, Mandore and the Superintendent of Police, Jodhpur. After Final Report was submitted on 10-11-1989, notice was given to the complainant. The proceedings before the learned Magistrate continued for one or the other reason. The police again submitted Final Report in the year 1995. However, the complainant got his statement recorded on 7-9-2000. On 8-11-2000, statements of some more witnesses were recorded and on 11-12-2000, an application u/s 473, Cr.P.C. was filed for condonation of delay. The learned Magistrate condoned the delay considering the fact that there was a delay on the part of the police in submitting the report in spite of repeated directions given by the Court.

3. Having perused the impugned order and the relevant record, I am of the view that the learned Magistrate has committed error in condoning the delay without there being good and sufficient reasons. No useful purpose is going to be served by putting the petitioners to trial for the incidents which alleged to have taken place more than 15 years back. The condonation of delay in such a light hearted manner is bound to frustrate the very purpose of providing limitation for trying the offence of trivial nature. Continuing proceedings in such matter tantamounts to abuse of process of the Court.

4. Consequently, petition is allowed and order dated 11-9-2001 passed by the Addl. Chief Judicial Magistrate is quashed and set aside. The proceedings against the petitioners pending in the Court of learned Addl. Chief Judicial Magistrate No. 3, Jodhpur in pursuance of order dated 11-9-2001 stand quashed.