
(1989) 07 RAJ CK 0036

In the Rajasthan High Court

Case No : Cr. Miscellaneous Petition No. 172 of 1989

Ram Chandra Meena

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 06-07-1989

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 147, 307, 323, 336, 338

Citation : (1989) 2 RLW 527 : (1989) WLN 78

Hon'ble Judges : G.K. Sharma, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

G.K. Sharma, J.—This is a petition u/s 482. Cr.P.C. preferred against the order of the Judicial Magistrate, Hindaun City, dated Dec. 6, 1988, by which, he rejected the application of the petitioner for taking cognizance u/s 307, IPC, and committed the case to the court of Sessions Judge.

2. The complainant lodged a report at the Police Station, and a case Under Sections 447, 427, 379, 147 & 307, was registered and investigation started. Initially, the investigation was done by the DSP, but, later on, it was transferred to the Addl. SP, CID (CB), Bharatpur. After completing investigation, the Police submitted a challan against the accused persons Under Sections 379, 147, 323, 336 & 338, IPC. The learned Magistrate registered a case and took cognizance against the accused persons and summoned them. Thereafter, complainant Ramchandra submitted an application before the Judicial Magistrate that cognizance u/s 307. IPC, be also taken, as there was material on record, in this regard. The learned Magistrate gave a detailed order and passed some strictures on the functioning of the Investigating Officer and also opined that there was some evidence which could cover the case u/s 307, IPC, but, he did not accept the application and rejected the prayer of the complainant, on the ground that he was not competent to review his own order.

3. Mr. Naqvi, the learned Counsel for the petitioner, which referring to Section 323, IPC. argued that from the papers of investigation, a case u/s 307, IPC, is made out, and so, it was for the learned Magistrate to take cognizance under that section. According to him, the learned Magistrate has committed error in passing the order and rejecting the application of the petitioner for taking cognizance against the accused persons u/s 307, IPC.

4. A challan was submitted by the State and while submitting the challan, the Investigating Officer mentioned the grounds for not submitting the challan u/s 307, IPC; and the learned Magistrate, after seeing the challan papers registered it and took cognizance. This is no argument of the learned Counsel that the learned Magistrate, in a routine manner took cognizance against the accused. The complete record was before the court, and it is presumed that the learned Magistrate went through the entire record for faking cognizance and he was satisfied that no case u/s 307, IPC, was made out, though, the FIR was registered for this offence too. He agreed with the Investigating Officer and took cognizance against the accused persons for the offences, as mentioned in the challan. The State did not press this point before the learned Magistrate that a case u/s 307, IPC, was prima facie made out. If any grievance was there in this regard, the State could have filed such an application. But complainant Ramchandra moved an application before the learned Magistrate, and when inquired by the learned Magistrate as to for what reason that application was submitted, the learned Counsel could not reply to this query. Under what provision of law, did not complainant move the said application? I do not agree with the general argument of the learned Counsel for the petitioner that this Court has wide powers, and that in the interest of justice, this Court can look into the entire record and come to the conclusion that there is a prima facie case u/s 307, IPC, against accused persons; and hence, a direction should be given to the learned Magistrate to take cognizance of this offence. Inherent powers are to be exercised in the light of law. If there is no provision in the Code, this Court has no power to exercise its inherent powers arbitrarily. There must be some ground or reason to interfere. This is correct that the order of the learned Magistrate could not be reviewed by himself. While submitting the challan, the Investigating Officer mentioned that no case u/s 307, IPC, was made out and the challan was submitted. The learned Magistrate, in my view, has rightly taken the cognizance against the accused persons. It cannot be said that he has abused the process of the court, nor can it be said that in the interest of justice, this Court should interfere in such matters. Inherent powers of this Court are to be exercised judicially; and I see no reason to interfere in the order of the learned Magistrate.

5. Consequently, the petition u/s 482, Cr.P.C. having no substance, is therefore, dismissed.