

(2008) 02 RAJ CK 0015

In the Rajasthan High Court

Case No : Criminal Miscellaneous Petition No. 1120 of 2007

Ram Gopal

APPELLANT

Vs

State of Rajasthan and Another

RESPONDENT

Date of Decision : 15-02-2008

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 211

Citation : (2008) 1 WLN 543

Hon'ble Judges : H.R. Panwar, J

Bench : Single Bench

Judgement

H.R. Panwar, J.—By the instant criminal miscellaneous petition u/s 482 of the Code of Criminal Procedure, 1973 (for short, 'the Code' hereinafter), the petitioner has challenged the order dt. 30.11.2005 passed by the Judicial Magistrate, Pilibanga, Distt. Hanumangarh (for short 'the trial Court' hereinafter), whereby the trial Court took cognizance of the offence u/s 211 IPC against the petitioner on the complaint filed by the complainant, i.e. the Station House Officer, Police Station Golluwala Distt. Hanumangarh.

2. Heard learned Counsel for the parties and perused the order impugned.

3. It is contended by the learned Counsel for the petitioner that the petitioner earlier filed a complaint, which was sent to the police u/s 156(3) of the Code for investigation. The police submitted the negative Final Report in FIR No. 181/2005. However, on a protest petition, the trial Court recorded the statements of witnesses CW 1, CW 2, CW 3 and CW 4 and on the basis of the material placed before the trial Court, it took the cognizance of the offence under Sections 427 and 447 IPC against accused Krishna Lal vide order dt. 14.07.2006, which is on the record.

4. Thus, when the trial Court has taken the cognizance against accused Krishna Lal on the complaint lodged by the petitioner which was registered as FIR and then there remains nothing to say that the petitioner filed complaint/FIR falsely

and, therefore, the complaint by the S.H.O. u/s 211 IPC for lodging a false case cannot be maintained and the order taking cognizance on such complaint of the offence u/s 211 IPC against the petitioner cannot be sustained.

5. The criminal miscellaneous petition filed by the petitioner u/s 482 of the Code is, therefore, allowed; the impugned order dt. 30.11.2005 is set aside and the proceedings in Criminal Regular Case No. 697/2005 (State v. Ram Gopal), qua the petitioner, stands quashed. The stay petition also stands disposed of.