

(1998) 03 RAJ CK 0023

In the Rajasthan High Court

Case No : Criminal Miscellaneous Peition No. 694 of 1997

Rimjhu Khan

APPELLANT

Vs

State of Rajasthan

RESPONDENT

Date of Decision : 20-03-1998

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 156, 157
Penal Code, 1860 (IPC) — Section 143, 323, 341, 354

Citation : (1998) 3 RLW 1424 : (1998) 3 WLC 232 : (1998) 1 WLN 282

Hon'ble Judges : Amaresh Ku. Singh, J

Bench : Single Bench

Judgement

Amaresh Ku. Singh, J.—Perused the file. It appears that according to the office report notice of non-petitioner No. 2, namely, Jaswant Singh, Station House Officer of Police Station, Looni has been returned unserved. There is no allegation against Jaswant Singh in his personal capacity nor any relief has been sought against him. He has been impleaded in his official capacity as Station House Officer of the Police Station, Looni. Learned Public Prosecutor is directed to accept the notice of Jaswant Singh and he accepts the same. Hence the service is complete.

2. Heard the learned Counsel for the petitioners and the learned Public Prosecutor. The petitioners have prayed that the investigation which is being conducted by the Station House Officer of the Police Station, Looni in respect of FIR No. 107/1997 be quashed. According to the petitioner, Mohan Lal S/O Poona Ram Lodged FIR No. 107/1997 at Police Station, Looni on 13.8.1997 and alleged there in that on 12.8.1997 at about 7.00 P.M. when his wife went to the shop of Chandra Ram to purchase sugar, Ghewar Ram, Ladu Ram, Oma Ram, Jagga Ram, Prakash and Vena Ram who were person at the shop made obscene jester before her as a consequence there of she returned to her house with tears in her eyes. Soon after that Mohan Lal and Chhagan Lal went to the shop where the above mentioned incident had occurred and started enquiring into the matter. At that time they were attacked and injuries were inflicted on them with stones and

lathis. Mohan Lal fell on the ground on account of injuries received by him. It was further alleged that Ghewar Ram, Ladu Ram, Oma Ram, Jagga Ram, Prakash, Ramesh and Chandra Ram were person who inflicted injuries. It was also alleged in the FIR that Mohan Lal and his brother Chhagan Lal, soon after the above incident rushed towards their house and after entering the house they closed the door from inside. Above named assailants chased Mohan Lal and Chhagan Lal and when the door of the house was closed from inside they hit the door with lathins for sometime and then they went away. On the basis of the allegations made by Mohan Lal in his report dated 13.8.1997 the Police registered a case under Sections 143, 341, 323 and 354 IPC.

3. According to petitioners, Chhagan Lal submitted a report in writing before by. Superintendent of Police (Rural), Jodhpur on 14.8.1997 and in that report it was stated that in the evening of the previous day Rimjhu Khan, Ibbu Khan, Suleman Khan, Mishri Khan, Mobin Khan, Bhure Khan, Smt. Munni and Sher Khan started inflicting injuries to Budha Ram in front of the shop of Chandra Ram. It was further stated in that application that on witnessing the above mentioned incident Chhagan Lal and Mohan Lal rushed towards the shop of Chandra Ram in order to save Budha Ram who was being assaulted. The assailants then gave up beating Budha Ram and ran after Mohan Lal and Chhagan Lal in order to beat them. In order to save themselves Mohan Lal and Chhagan Lal entered into their house and closed the door from inside. The assailants on reaching their house showered abuses and forcibly entered into Barasali and started inflicting injuries to Mohan Lal and Chhagan Lal with lathis when Madan Lal tried to intervene he was also assaulted. Smt. Chauthi Devi, Kamla, Shayari, Tulsi, Sita who were inside the house were also knocked down. It was also mentioned in the report that Bhera Ram, Anada Ram, Banshi Lal and Kalu Ram had arrived the spot at the time of the incident and Bhera Ram received one injury on his arm when he tried to intervene. In his report, Chhagan Lal further colleged that when he went to Police Station to lodged first information report the Station House Officer of the Police Station did not register the first information report and threatened to confine him at the Police Station.

4. The facts as have been stated by the petitioner, show that the incident which was narrated in the FIR No. 107/1997 occurred in the evening of 12.8.1997 where as the incident which is alleged in the complaint made by Chhagan Lal to the Dy. Superintendent of Police (Rural), Jodhpur had taken place on 13.8.1997. There does not appear to be any nexus between these two separate incidents. So far as FIR No. 107/1997 is concerned it is in respect of the incident which is alleged to have occurred in the evening of 12.8.1997 and bare reading of FIR shows that none of the petitioners are alleged to have been involved in that incident. There is, therefore, no ground worth the name to quash the FIR No. 107/1997.

5. So far as the incident alleged in the complaint made by Chhagan Lal is concerned this incident appears to be a separate incident. The learned Counsel

for the petitioners has submitted that no separate FIR was registered on the basis of the complaint made by Chhagan Lal to the Dy. Superintendent of Police (Rura), Jodhpur and that petitioners No. 1, 3 and 7 had been arrested by the Station House Officer of the Police Station, Looni in connection with the allegations made by Chhagan Lal in his complaint.

6. In view of above submissions, it would be power to direct the Station House Officer of the Police Station to ascertain whether the incident alleged in FIR No. 107/1997 of Police Station, Looni and the incident alleged in the complaint made by Chhagan Lal before the Dy. Superintendent of Police (Rural), Jodhpur are one and the same or they are separate incidents. In case it is found that they are separate incidents having no nexus with each other, the Station House Officer of the Police Station, Looni shall take suitable action in accordance with Sections 156 and 157 Cr. P.C. In case he finds that two incidents are one and the same then it would be in the fitness of things that investigation conducted in order to find out whether the version given by Mohan Lal in FIR No. 107/1997 is correct or the version given by Chhagan Lal in the complaint made to Dy. Superintendent of Police (Rural), Jodhpur is correct. In case Station House Officer of the Police Station, Looni considers it necessary to arrest any offender u/s 157 Cr. P.C. he would act in accordance with the directions given by the Supreme Court in Joginder Kumar Vs. State of U.P. and others, In that Hon''ble Supreme Court has observed:

No arrest can be made because it is lawful for the police officer to do so. The existence of the power of arrest is one thing. The justification for the exercise of it is quite another.... No arrest should be made without a reasonable satisfaction reached after some investigation about the genuineness and bona fides of a complaint and a reasonable belief both as to the person's complicity and even so as to the need to effect arrest. Denying a person his liberty is a serious matter.

7. With above observations the petition is hereby disposed of. The prayer to quash FIR No. 107/1997 is rejected. The Public Prosecutor shall bring to the notice of the Station House Officer of "the Police Station, Looni the observations made by this Court in this order.