
(1994) 05 RAJ CK 0009

In the Rajasthan High Court

Case No : Criminal Miscellaneous Petition No. 1021 of 1993

Shravan Kumar

APPELLANT

Vs

State of Rajasthan

RESPONDENT

Date of Decision : 06-05-1994

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482

Citation : (1994) 1 WLN 424

Hon'ble Judges : N.C. Kochhar, J

Bench : Single Bench

Final Decision : Allowed

Judgement

N.C. Kochhar, J.—The facts giving rise to this petition u/s 482, Cr. P.C. are as under: The applicant appeared in his Secondary School examination and was at Government Girls Senior Higher Secondary School, Gangapur City on 1.4.1993 when he was answering the questions of Political Science paper. A Flying Squad checked the candidates and found in the hip pocket of the applicant four written pages of the diary and thereupon a report u/s 3(6) of the Rajasthan Public Examinations (Prevention of Unfair Means) Act, 1992 was lodged with the Police Station where the case was registered against the applicant vide FIR No. 147/93. The Police filed challan against the applicant and the trial court vide the impugned order dated 29th July, 1993 has found a prima facie case and has framed charges against the applicant under in the above mid provisions. Feeling aggrieved, the applicant approached this Court by filling this petition.

2. Learned Counsel for the petitioner has pointed out that the four pages of diary were having certain questions and answers relating to General Knowledge and those papers have no connection with the paper in question. It has also been contended that even otherwise, no offence can be said to have been committed within the meaning of Section 3 of the Act of 1992.

3. Clause (c) of Section 2 of the Act defines "unfair means" as under:

fdlh ijh{kk ds lEcU/k es vuqfpr lk/ku ls] fdlh lkoZtfud ijh{kk ds iz"u dk mRrj nsrs le;] fdlh Hkh O;fDr ls ;k fdlh Hkh fyf[kr] vfHkfyf[kr ;k eqfnzr lkexzh ls fdlh Hkh :i es vizkf/kd`r lgk;rk ;k fdlh Hkh vizkf/kd`r nwjHkkf"kr] csrkj ;k bysDV?kfud vFkok vU; midj.k ;k ;a= dk mi;ksx vfHkizsr gSA

4. Section 3 of the Act prohibits the using of unfair means by any person at any public examination.

5. Bare reading of the definition of "unfair means" shows that the provisions is attracted only when some one takes unauthorised help either from any person or from any material written, recorded or printed in any form or by use of any unauthorised telephonic, electronic instrument. It is evident that no help could be taken from the material in question. Even if the material in question is related to Political Science paper (which it is not), it could not be said that the petitioner committed any offence, as, at the most, he could be said to have made preparations for committing an offence. There was no material before the learned trial Court to have framed charge against the petitioner under the provisions noted above. The prosecution of the petitioner would mean abuse of process of Court and would cause great injustice to the petitioner.

6. Consequently, I accept this petition and quash the proceedings including framing of charge against the petitioner.