
(2011) 03 RAJ CK 0071

In the Rajasthan High Court

Case No : Criminal Miscellaneous Petition No. 635 of 2011

Shri Ramdayal Dass and Others

APPELLANT

Vs

State of Rajasthan and Another

RESPONDENT

Date of Decision : 16-03-2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 156(3)
Penal Code, 1860 (IPC) — Section 120B, 420, 465, 467, 471

Citation : (2011) 03 RAJ CK 0071

Hon'ble Judges : Raghvendra S. Chauhan, J

Bench : Single Bench

Judgement

R.S. Chauhan, J.—The Petitioners are aggrieved by the order dated 20.05.2010 passed by the Judicial Magistrate No. 13, Jaipur City, Jaipur, whereby the learned Magistrate has dismissed the negative final report submitted by the police.

2. The brief facts of the case are that Mahant Samtaram, Respondent No. 2, had filed a complaint before the learned trial Court against the Petitioners. The learned trial court had sent the complaint u/s 156(3) Cr.P.C, for further investigation to the Police Station Sadar. The police had registered a FIR, FIR No. 134/2009 for offences under Sections 420, 465, 471, 467, 474 and 120B IPC and started investigation. However, after a thorough investigation, the police had submitted a negative final report before the Court. On 10.09.2009, the complainant filed a protest petition challenging the negative final report. On 01.05.2010, the complainant submitted an application praying for reinvestigation of the case. After hearing the arguments of both the parties, vide order dated 20th May, 2010, while directing that the documents in question be sent to the FSL for its examination and report, the learned Magistrate has dismissed the negative final report submitted by the police. Hence, this petition before this Court.

3. The learned Counsel for the Petitioner has vehemently contended that a negative final report cannot be dismissed without recording any cogent reasons.

Thus, the order dated 20th May, 2010 is a non-speaking order. Moreover, while sending the documents in question to the FSL, the dismissal the negative final report, clearly shows a nonapplication of mind. Therefore, he has sought a limited prayed that the part of the order dismissing the negative final report should be quashed and set aside.

4. In all fairness, the learned Public Prosecutor has conceded that a negative final report cannot be dismissed without recording of reason by the learned Magistrate.

5. Indeed, passing of a speaking order, even in a criminal case, cannot be ignored by the learned Magistrate. A negative final report is certainly in favour of the accused persons. Therefore, the accused person has a right to know the grounds on which the negative report is being dismissed. Moreover, the recording of reason gives the accused the satisfaction that not only justice has been done, but it appears to have been done with him. Furthermore, the recording of reasons also gives the appellate Court a chance to look into the legality or illegality of the order. However an order which merely dismisses the negative final report, that, too, in one line does not permit the appellate Court to appreciate the legality or illegality of the order. Therefore, apparently, the order dated 20.05.2010 tantamounts to a non-speaking order.

6. Hence, this Court modifies the order dated 20.05.2010 and sets aside the dismissal of negative final report and directs the learned Magistrate to pass a detailed and reasoned order about the acceptance or rejection of the negative final report, after receiving the report of the FSL.

7. With these observations, this petition is, hereby, disposed off.