

(2011) 01 RAJ CK 0002

In the Rajasthan High Court

Case No : Criminal Miscellaneous Petition No. 1626 of 2010

Surendra Kataria (Dr.)

APPELLANT

Vs

Dr. (Smt.) Shashi Induliya and Others

RESPONDENT

Date of Decision : 12-01-2011

Acts Referred:

Copyright Act, 1957 — Section 63

Criminal Procedure Code, 1973 (CrPC) — Section 200, 202, 482

Penal Code, 1860 (IPC) — Section 420

Citation : (2011) 5 RCR(Criminal) 340 : (2011) 3 RLW 1962

Hon'ble Judges : Mahesh Chandra Sharma, J

Bench : Single Bench

Advocate : Ripudaman Singh, for the Appellant; Amit Punia, Public Prosecutor assisted by Ashvin Garg for Non-Petitioner 2 and Tek Chand Rahul for Non-Petitioner 1, for the Appearing Parties

Final Decision : Dismissed

Judgement

Mahesh Chandra Sharma, J.—Heard learned counsel for the petitioner and the learned Public Prosecutor assisted by Mr. Ashwin Garg and Mr. Tek Chand Rahul for the non-petitioners 1 and 2. This misc. petition has been filed by the petitioner u/s 482 Cr.P.C. for quashing the order dated 16.3.2010 passed by CJM Jaipur City whereby the opportunity to precharge evidence of the petitioner was closed.

2. The brief facts relevant to this misc. petition are that the complainant petitioner filed a complaint before the Chief Judicial Magistrate Jaipur City Jaipur against the non-petitioner 1 to 4 for the offence u/s 63 of the Copy Right Act read with Section 420 IPC on 14.8.2006 stating therein that the petitioner is having Copy Rights, rights for his book "Karmik Prashashan and Prashashnik Sidhant and Prabhand" but the non-petitioners 1 to 4 by taking some parts of the said book published a new book "Lok Prashasan" as such the non-petitioners violated the provisions of the Copy Right Act for which they are liable to be

punished. The CJM recorded statements under Sections 200 and 202 Cr.P.C. and matter was investigated through SHO Police Station Manak Chowk, Jaipur and the investigating officer submitted his report and the CJM considering the report and the other material on record passed the order of cognizance against the non-petitioners 1 to 4 for the offence u/s 63 of Copy Right Act vide order dated 18.5.2007 and the non-petitioners were summoned through bailable warrants. After execution of bailable warrants the non-petitioners 1 to 4 put in their appearance through their advocate before the CJM and the CJM proceeded to record pre-charge evidence of the petitioner. After giving several opportunities to the petitioner for precharge evidence, the petitioner has not been able to produce the evidence. The CJM closed the precharge evidence as the counsel for the petitioner was not present and rejected the application of the petitioner for giving another date on 16.3.2010. Against this order the petitioner has filed this petition for quashing the order of the CJM rejecting the application and closing the precharge evidence.

I have heard the learned counsel for the parties. The learned counsel for the petitioner submitted that the order rejecting his application for adjournment and closing the precharge evidence is liable to be rejected, It is an admitted fact that the petitioner was given 14 opportunities for producing the precharge evidence, but he has failed to produce any precharge evidence and hence in my considered opinion when enough opportunities were given to the petitioner and he has not been able to produce the precharge evidence, the CJM rightly closed the precharge evidence and this order of the CJM does not call for any interference under Sec. 482 Cr.P.C. when enough opportunities were given. The learned counsel for the non-petitioners submitted certified copies of the order sheets, which shows that the CJM given enough opportunities to the petitioner to produce the precharge evidence and since the petitioner or his counsel were not able to produce any precharge evidence after giving several opportunities, the order closing precharge evidence does not call for any interference u/s 482 Cr.P.C.

When sufficient opportunities were given to the petitioner for producing precharge evidence, such types of order does not call for any interference u/s 482 Cr.P.C. This misc. petition being devoid of merit stands rejected. The stay application also stands rejected.