
(2009) 07 RAJ CK 0040
In the Rajasthan High Court

Vaman Narayan Ghiya and Others

APPELLANT

Vs

State of Rajasthan

RESPONDENT

Date of Decision : 03-07-2009

Acts Referred:

Antiquities and Art Treasures Act, 1972 — Section 14, 5
Penal Code, 1860 (IPC) — Section 380, 411

Citation : (2009) CriLJ 4729 : (2010) 6 RCR(Criminal) 572 : (2010) 1 RLW 925

Hon'ble Judges : Mahesh Bhagwati, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Mahesh Bhagwati, J.—Since both the aforesaid petitions filed u/s 482 pertain to quashing FIR No. 33/2006 registered at police station Nihalganj, Dholpur for the offence u/s 380 of IPC, they are being disposed of by this common order.

2. The relevant facts giving rise to these petitions are set out in nub as under:

That a report came to be lodged at police station Vidhyadhar Nagar, Jaipur on 6-6-2003 by one Ram Singh, Circle Inspector, police station Vidhyadhar Nagar, Jaipur. The said report was registered as FIR No. 146/ 2003 for the offences punishable under Sections 379, 411 and 401 of IPC. During the investigation of this case, the Investigating Agency made an arrest of accused persons including petitioner Vaman Narayan Ghiya. The Investigating Officer obtained an information u/s 27 of Indian Evidence Act from the petitioner and in pursuance thereof, carried out a search on 25-6-2003 of the Ware-House "Indian Craft" belonging to accused Pradeep Malhotra situated at D-21/5, Okhla, Phase-II, Delhi. During search recovery of 41 boxes was allegedly made from the aforesaid Ware-House of the Co-accused Pradeep Malhotra at Delhi. These 41 boxes are said to have contained various artifacts/ articles/idols which were duly seized by the Investigating Agency in FIR No. 146/2003 of police station Vidhyadhar Nagar, Jaipur. After completion of investigation, the Officer In-charge of police station Vidhyadhar Nagar, Jaipur submitted a charge-sheet in the offences under

Sections 379, 411, 401, 413, 414 and 120-B of IPC and Sections 5, 14/25(2) of Art and Antiquities Treasures Act, 1972. However, police station Vidhyadhar Nagar, Jaipur kept the investigation pending u/s 173 (8) of Cr. P.C. on 10 points, as enumerated in the charge-sheet. Investigation on point No. 5 was kept open for the purpose of ascertaining the original place from where recovered idols and artifacts seized from the accused persons, belonged to. In due course of time, the case came up for trial before the Additional Sessions Judge (Fast Track) No. 1, Jaipur City, Jaipur, who concluded the trial and delivered judgment on 20-11-2008, therein. It is found that the petitioner Vaman Narayan Ghiya has been convicted in the offences under Sections 411 and 413 of IPC and Sections 3/25(1) and 14/25(2) of Art and Antiquities Treasure Act, 1972 (hereinafter to be referred as "Act 1972").

3. On the other hand, one more FIR No. 33/2006 came to be registered on 30-1-2006 for the offence u/s 380 of IPC, on an information given by the complainant Shri Neelam Kumar. As per the contents of FIR No. 33/06 of police station Nihalganj, Dholpur, many articles of historical importance and antiques had been lying since long in the basement of City Place of Dholpur. This basement was lying closed for the last 4-5 years. It is stated that on 30-1-2006 when the staff members namely Jahoor Khan and Laxmi Narayan of City Palace went to clean the basement, they found the painting of his highness in Royal Attire, a painting of his Highness and her Highness in Royal Attire in wooden frame, a scenery in glittering metal fixed in wooden and glass frame, a black dog, two round pot (Lotas) made of metal, one tray made of glittering metal, two owls of metal, one pig of metal and one Jar (Surahi) made of metal, missing from the basement. It was presumed that these articles had been stolen by somebody, thus, the complainant Neelam Kumar, an employee of City Palace, Dholpur lodged the FIR with police station Nihalganj, Dholpur which was registered by police as FIR No. 33/06 in the offence u/s 380 of IPC. During investigation S.H.O. police station Nihalganj, Dholpur obtained production warrant of Vaman Narayan Ghiya and Pradeep Malhotra from the Court of Additional Chief Judicial Magistrate, Dholpur and in pursuance thereof, arrested them on 20-2-2006 and produced them before the concerned Court. Both these accused persons have been in judicial custody in FIR No. 33/06 of police station Nihalganj, Dholpur. After completion of investigation, S.H.O. police station Nihalganj, District Dholpur submitted a charge-sheet against the accused persons namely Vaman Narayan Ghiya, Pradeep Malhotra, Abdul Kareem alias Nanne Khan and Abid Sageer in the offences under Sections 380 and 411 of IPC. The charge-sheet reveals that the accused Aju Miyan has yet not been arrested in this case and investigation has been kept pending u/s 173 (8) of Cr. P.C. against the Hari Agarwal, Haider Ali, Aju Miyan, Ashok Agarwal and Jassai Brass Wala.

4. It is very pertinent to mention at this stage that the petitioner filed this petition u/s 482 of Cr. P.C. for quashing the FIR No. 33/2006 of police station Nihalganj, Dholpur and sought interim relief praying that further proceedings in FIR No. 33/2006 be stayed till the final decision of the main petition. This Court

having heard both the parties on 29-5-2006 stayed the proceedings and passed the following order:

Learned Counsel for the petitioner has submitted that in utter disregard to this Court, the I.O. has filed charge-sheet in order to render his petition infructuous. He has, therefore, prayed that if further proceedings in the Court below are not stayed, the Court below will proceed to frame charges making it difficult for the petitioner to get his FIR quashed.

Put up on 12-7-2006, till then, further proceedings in Court below instituted on the basis of FIR No. 33/06 registered at P. S. Nihalganj, Dholpur are hereby stayed.

5. It has been alleged by the petitioner that the impugned FIR (FIR No. 33/06 of police station Nihalganj, Dholpur) has been maliciously instituted by police with ulterior motive to unnecessarily further harass and malign him. This FIR, by all means qualifies to a second FIR which cannot be registered u/s 154 of Cr. P.C. and would be completely inadmissible hit by Section 162 of Cr. P.C. The FIR No. 146/03 which was initially registered at police station Vidhyadhar Nagar, Jaipur and which led to filing the charge-sheet against the accused persons including the petitioner Vaman Narayan Ghiya but squarely take into its fold the alleged offences which has now been maliciously segregated, leading to registration of the impugned FIR No. 33/06 of police station Nihalganj, Dholpur.

6. According to the petitioner, it is an admitted position that the articles which are alleged to have been stolen in the impugned FIR (FIR No. 33/06 of police station Nihalganj, Dholpur) were allegedly recovered during the course of investigation of FIR No. 146/03 of police station Vidhyadhar Nagar, Jaipur. The recovery, which was allegedly effected at Warehouse "Indian Craft" of Pradeep Malhotra in pursuance of an information purportedly given u/s 27 of Indian Evidence Act by the accused-petitioner did contain the articles which in the impugned FIR are alleged to be stolen. Under such circumstances, the subject matter relating to disclosure of offence qua the impugned FIR have already been decided by the Additional Sessions Judge (Fast Track) No. 1, Jaipur City, Jaipur, which arose out of FIR No. 146/2003 of police station Vidhyadhar Nagar, Jaipur. In this backdrop, the impugned FIR No. 33/03 for all intents and purposes, is a second FIR, which is inadmissible evidence and cannot be registered and acted upon by the police. The subject matter of impugned FIR is directly connected with the subject matter of FIR No. 146/03 of police station Vidhyadhar Nagar, Jaipur and the criminal case arising out of and pertaining to FIR No. 146/03 has been finally decided by Additional Sessions Judge (Fast Track), No. 1, Jaipur City Jaipur on 20-11-2008. The impugned FIR No. 33/ 06 of police station Nihalganj having suffered from vice of being a second FIR which is hit by an express legal bar engrafted u/s 162 of Cr. P.C. and completely violative of Article 21 of the Constitution, this FIR No. 33/06 registered at police station Nihalganj, Dholpur for the offence u/s 380 of IPC deserves to be quashed.

7. The fact situation emerging in the instant case is thus:

(i) One FIR No. 146/03 was registered by police station Vidhyadhar Nagar, Jaipur on 6-6-2003 in the offences under Sections 379,411 and 401 of IPC.

(ii) During the investigation of this case, 41 boxes were recovered from the warehouse "Indian Craft" situated at D-21/5, Okhla, Phase-II, Delhi, which belonged to the accused Pradeep Malhotra.

(iii) These 41 boxes contained 506 articles which were exhibited by the trial Court, such as, Ex/A. 963 to 1468.

(iv) Out of these 506 articles, 485 articles on inspection were found to be artifacts.

(v) These 485 articles/artifacts recovered from the warehouse of Pradeep Malhotra contained those 11 articles which have been found to be the subject matter of FIR No. 33/96 of police station Nihalganj, Dholpur. 11 artifacts/articles were found to have been stolen on 30-1-2006 by Johoor Khan and Laxmi Narayan when these employees of City Palace, Dholpur went to clean the basement which had been lying closed for the last 4-5 years. Since the stolen articles of FIR No. 33/06 were recovered from the warehouse of Pradeep Malhotra on 25-6-2003, it could be presumed that these articles must have been stolen before 25-6-2003 by some person or persons.

(vi) Though the FIR No. 33/06 of police station Nihalganj has not been exhibited in the Court of Additional Sessions Judge (Fast Track) No. 1, Jaipur City, Jaipur during trial but the 11 stolen articles which are the subject matter of this FIR have been exhibited as Ex/A. 1263 to 1269 and Ex/A. 1448 to 1450.

8. Heard learned Counsel for the petitioners, learned Counsel for the applicant-Pradeep Malhotra as also learned Special Public Prosecutor appearing for the State and perused the relevant material available on record.

9. Learned Counsel Mr. Alok Sharma appearing for the petitioner has vehemently canvassed that since the petitioner has already been put to trial for the alleged recovery of articles having said to be stolen from the City Palace of Dholpur and has been convicted for the offences under Sections 411 and 413 of IPC and Sections 3/25(1) and 14/25(2) of "Act, 1972", he cannot be made liable to put to trial again for the same offence and on same facts by the Additional Chief Judicial Magistrate, Dholpur, as it would lead to double jeopardy. He has further contended that for all practical intents and purposes the offences of theft and the offence receiving the property stolen in the aforesaid theft are offences in the course of same transaction. If one series of acts so connected together as to form the same transaction, have been done which qualify to be offences, then for the aforesaid offences, an accused person can be tried only at one trial and thus, the registration of FIR No. 33/06 completely defies the tenets of provisions contained u/s 220 of Cr. P.C.

10. Learned Counsel has further contended that the prosecution has failed to establish that the petitioner and Pradeep Malhotra received the allegedly stolen articles at different times. Since the recovery of all articles in 41 boxes has been made at one point of time and it is not proved that these articles were received by them at different times so different trials in different courts with regard to same articles cannot be held. He has cited the judgments reported in AIR 1932 Lahore 615 : 1933 (34) Cri LJ 458 (1) and 1923 Cri LJ 707 in support thereof.

11. Learned Counsel has relied upon one more judgment reported in Crimes IX-1990 (3) pg. 218 wherein, it has been held by Punjab and Haryana High Court that:

Second trial of a person once tried, and either convicted or acquitted on the same facts which might be disclosing any other offence is barred u/s 300, Cr. P.C. 1973.

12. Learned special Public Prosecutor appearing for the State in contra, has contended that the prosecution applied for getting the FIR No. 33/06 of police station Nihalganj, Dholpur exhibited in the Court of Additional Sessions Judge (Fast Track) No. 1, Jaipur City, Jaipur but the Court did not permit the prosecution to exhibit this FIR. Neither the contents of the FIR No. 33/ 06 were allowed to be proved nor any finding of acquittal or conviction with regard to the articles stolen from the basement of City Palace, Dholpur has been given by the learned Additional Sessions Judge, hence it cannot be said that the petitioner is being tried again for the same offence in FIR No. 33/06 of police station Nihalganj, Dholpur.

13. Learned Special Public Prosecutor Mr. A. K. Bajpai has further contended that FIRs of about 14 police stations have been exhibited by the prosecution during trial before Additional Sessions Judge (Fast Track) No. 1, Jaipur City, Jaipur but impugned FIR No. 33/06 of police station Nihalganj, Dholpur was not allowed to be exhibited by the Court, reason being that this FIR was registered in the year 2006 whereas, the trial of FIR No. 146/03 Vidhyadhar Nagar, Jaipur had already begun in the year 2003-04. Learned Special Public Prosecutor further submits that the subject matter of FIR No. 33/06 cannot be said to be the subject matter of FIR No. 146/03 of police station Vidhyadhar Nagar, Jaipur, as no finding of acquittal or conviction has been given by learned trial Court with regard to these articles and thus, both the petitions are liable to be dismissed.

14. A bird's eye view of some of the decisions of Hon"ble Apex Court and High Courts throwing light on this issue and heavily relied upon by the learned Counsel for the petitioner needs to be taken.

15. In the case of Ganesh Sahu v. Emperor, reported in 1923 Criminal Law Journal Reports, Vol. XXIV, pg. 707, the Calcutta High Court held that:

The petitioner in this case has been convicted u/s 411, Indian Penal Code, on the charge of having been in dishonest possession of stolen property on the 7th

December, 1921. It appears that on that date several articles of property were found in the room occupied by the petitioner. In respect of some of them he was prosecuted and after being convicted u/s 411, Indian Penal Code, by the Trying Magistrate he was acquitted on appeal. He has now been tried and convicted in respect of other properties found in his possession on the same date. There was evidence that the different articles which were the subject of the charges in the two trials were stolen from different persons, but there is no evidence that they were received at different times.

16. In the case of *Jalal v. Emperor*, reported in AIR 1932 Lah. 615 (1) : 1933 Cri.LJ 458, it has been held that:

Where there is no proof whatsoever that the accused had received the proceeds of five different thefts on five different occasions and on the other hand it was more likely that the thief or thieves may have passed on the stolen property to the accused at one and the same time, the accused cannot be convicted under five separate chalans for the offence of being in possession of stolen property u/s 411.

17. In the case of *State of Madhya Pradesh Vs. Bahadur Singh and Others*, Madhya Pradesh High Court held as under :-

Therefore, it is clear that offence in question of which cognizance has been taken in two different Courts, is the same, inasmuch as, it relates to the same transaction viz., theft of the particular truck during the particular relevant period and its recovery later, from some third person as the stolen property. Both the cases are common, having arisen out of the same occurrence or same transaction relating to the truck in question, based on nearly similar sets of facts and circumstances. Mention of the additional offence u/s 411 IPC in the charge-sheet filed in one Court does not change the nature of the offences under the respective charge-sheets of both the Courts, since commission of the offence u/s 411, IPC is only consequential and in relation to the principal offence of theft.

18. In the case of *Amritlal Ratilal Mehta and Another Vs. State of Gujarat*, the Apex Court held as under:

that the question whether an earlier finding which had attained finality is binding in the subsequent proceedings in the case would depend on the question as to what the allegations were, what facts were required to be proved and what findings were arrived at. The question thus, is not whether the ingredients of the two offences are the same but whether the facts alleged and required to be proved in the particular case to establish the offences are basically the same

19. Learned Special Public Prosecutor Mr. A. K. Bajpai in contra has relied upon the following judgments:

- i) *Rameshchandra Nandlal Parikh Vs. State of Gujarat and Another*,
- ii) *Kari Choudhary Vs. Most. Sita Devi and Others*,

iii) M. Krishna Vs. State of Karnataka,

iv) Tika Ram and Others Vs. The State,

20. Having ruminated, it is respectfully observed that the judgments cited by the learned Counsel for the petitioner do not apply in the case on hand as they are related to two trials of offences, which are basically of the same nature.

21. Now advertent to the crucial issue as to whether the FIR No. 33/06 registered in police station Nihalganj, Dholpur deserves to be quashed in the light of the judgment dated 20-11-2008 rendered by Additional Sessions Judge (Fast Track) No. 1, Jaipur City, Jaipur for the same offences.

22. Sub-section (1) of Section 300 of Cr. P.C. is in conformity with the provisions of Article 20 (2) of the Constitution which provides that:

No person shall be prosecuted and punished for the same offence more than once.

23. Sub-section (1) of Section 300 of Cr. P.C. envisages as under:

A person who has once been tried by a Court of competent jurisdiction for an offence and convicted or acquitted of such offence shall, while such conviction or acquittal remains in force, not be liable to be tried again for the same offence, nor on the same facts for any other offence for which a different charge from the once made against him might have been made under Sub-section (1) of Section 221, or for which he might have been convicted under Sub-section (2) thereof.

24. This section enacts the rule of *autrefois acquit* and *autrefois convict* applicable to criminal trials. The rule is that so long as order of acquittal of conviction at a trial held by a Court of competent jurisdiction of a person charged committing an offence stands, that person cannot again be tried on the same facts for the offence for which he was tried of any other offence arising therefrom. The basic principle is embodied in the maxim *nemo debet bis puniri pro uno delicto* that it is to say, that no one ought to be punished twice for the offence or for the same cause. Sub-section (1) of Section 300 of Cr. P.C. lays down the rule whereas subsections (2) to (5) are the exceptions thereto. Sub-section (2) of Section 300 of Cr. P.C. reads thus :-.

(2) A person acquitted or convicted of any offence may be afterwards tried, with the consent of the State Government for any distinct offence for which a separate charge might have been against him at the former trial under Sub-section (1) of Section 220.

25. The true test by which the question whether such a plea is a sufficient bar in any particular case is whether the evidence necessary to support the second indictment would have been sufficient to procure illegal conviction upon the first. A trial is said to be upon the same facts if the evidence in the first case would have supported a conviction for the offences charged in the second case. It is a settled proposition of law that generally no accused shall be vexed with more

than one trial for the offences arising out of the same set of facts.

26. Though the different offences arising out of the different acts may form the subject matter of separate charges in one trial. That does not mean that the facts or acts are identical. The combined effect of Sections 300 (1) and 220 (1) is to lay down that generally no accused shall be vexed with more than one trial for offences arising out of same set of facts. Sub-section (2) of Section 300 of Cr. P.C. would enable the Court to hold a second trial in the case of, distinct offence. If the ingredients of the two offences are not the same, though the same facts might have been relied upon in both the cases, there would be no question of the principle of "autrefois acquit and autrefois convict" being applicable.

27. In the case of New Sutlej Transport Co. Private Ltd. Vs. State, it was held that:

Where the accused was charge-sheeted in consequence of the seizure of various articles from his houses, though different articles were involved in different cases, the Magistrate gave accused the benefit of doubt in regard to the identity of the articles alleged to have been stolen and acquitted the accused in one of those cases; it was held that it would not bar the trial in other cases.

28. Applying the above test in the facts of the instant case, it is noticed that 41 boxes were recovered and seized from the warehouse of the accused Pradeep Malhotra which contained in all 506 articles. Out of these 506 articles, 485 articles were found to be artifacts. These 485 artifacts/articles contained those 11 artifacts/articles also which are alleged to have been stolen from the basement of the City Palace, Dholpur for which FIR No. 33/06 was registered by police. These 11 articles are as under:

- 1) A painting of his Highness in Royal Attire and one painting of his Highness and Her Highness in sitting posture that too in Royal Attire fixed in wooden frame.
- 2) A painting of black dog in wooden frame.
- 3) Two sceneries of trees and birds.
- 4) Two small round pots (Lotas) made of metal.
- 5) One container for beetel-leaf (Paandan) made of metal.
- 6) Tray of glittering metal.
- 7) One pig of metal.
- 8) Two jars made of metal.
- 9) A pair of peacock made of metal.
- 10) Two owls and a bird made of metal.
- 11) A carved cascade made of stone.

29. It is interesting to note that these articles were put to trial but the charges framed against the petitioner did not contain the contents of these articles. Albeit, these articles have been exhibited as Ex/A. 1263 to 1269 and Ex/A. 1448 to 1450 but the prosecution was not allowed to exhibit this FIR No. 33/06 by the Court.

30. Having reflected over the submissions made at the bar and carefully scanned the relevant material including the judgment rendered by learned Additional Sessions Judge (Fast Track), No. 1, it is notified that at pages 430 and 431 of the judgment there is a mention of these 11 articles but the learned Additional Sessions Judge is found to have observed that neither it was proved that these 11 articles were stolen by some person nor it was proved that they were the stolen articles and nor it was proved that the petitioner received them knowing or having reason to believe that the same were stolen articles. The basis of this observation of the learned Additional Sessions Judge was that no FIR with regard to the theft of these articles was found to have been lodged anywhere in the years 2003, 2004 and 2005 nor any trial with regard to the theft of these articles was found to have been lodged anywhere in the years 2003, 2004 and 2005 nor any trial with regard to the theft of these articles was anywhere pending. At page 475 of the judgment, there is a mention of FIR No. 33/06 of police station Nihalganj but this FIR was not exhibited. The learned Additional Session Judge found these articles to be artifacts and the Court held that it was proved that the petitioner Vaman Narayan Ghiya and the accused Pradeep Malhotra were in possession of these artifacts/articles without obtaining any license. It is for this reason that the petitioner Vaman Narayan Ghiya and Pradeep Malhotra have been convicted and sentenced in the offences under Sections 3/25 (1) and 14/25 (2) of "Act, 1972".

31. Learned Additional Sessions Judge has not given any finding of acquittal or conviction with regard to these 11 artifacts/articles which are found to have been stolen from the basement of City Palace, Dholpur and which is the subject matter of FIR No. 33/06 of police station Nihalganj, Dholpur. It is to be noted that offences under Sections 380 and 411 of IPC are the distinct offences from the offences under Sections 3/25(1) and Section 14/25(2) of "Act, 1972". If the facts are the same but they constitute distinct offences then the provisions of Sub-section (2) of Section 300 of Cr. P.C. do not bar second trial.

32. The fact involved in FIR No. 146/03 of police station Vidhyadhar Nagar, Jaipur is that of the recovery of these articles from the warehouse "Indian Craft" of Pradeep Malhotra but there being no evidence with regard to the theft or receiving them knowing or having reason to believe the same to be stolen property, the petitioner and the Pradeep Malhotra were not indicted for the offences under Sections 379 or 380 or 411 of IPC. The FIR No. 33/06 is found to have been lodged in the year 2006 after three years of the recovery in the year 2003 from the possession of Pradeep Malhotra. Had these articles not been stolen, they would not have reached in the possession of the petitioner and co-

accused Pradeep Malhotra. The recovery of these 11 artifacts from the warehouse of the Pradeep Malhotra was in fact, the consequence of the commission of these from the basement of City Palace, Dholpur. Since, the petitioner and the accused Pradeep Malhotra were not indicted for the offence u/s 380 or 411 of IPC and no finding of acquittal or conviction with regard to these 11 artifacts/articles has been given, which is the subject matter of FIR No. 33/06 of police station Nihalganj, second trial is not found to be barred and the provisions of Section 300(1) of Cr. P.C. do not come into play. It is immaterial as to whether the FIR is lodged before the recovery of the stolen property or after the recovery of the stolen property with the police. If the facts of the case do constitute a distinct offence then under Sub-section (2) of Section 300 of Cr. P.C. the accused can be tried for that distinct offence and in that situation neither it hits the provisions of Section 162 of Cr. P.C. nor It is violative of Article 21 of the Constitution of India.

33. In the case of Surendra Chandra Debnath and Others Vs. Raghunath Sil, the accused was prosecuted first u/s 32 (C) of the Registration Act, and was acquitted. On the basis of the same evidence, he was then prosecuted u/s 467 of IPC. As the two offences were distinct, the second prosecution was held not to be a bar under this Section.

34. In the ultimate analysis, now has emerged on record which may enable the Court to hold that the learned Additional Sessions Judge (Fast Track) No. 1, Jaipur City, Jaipur has given a finding of acquittal or conviction with regard to the theft of 11 artifacts/articles or receiving or knowing the reason to believe the same to be stolen, recovered from the warehouse "Indian Craft" which is the subject property of FIR No. 33/ 06 of police station Nihalganj, Dholpur. Learned Additional Sessions Judge (Fast Track), No. 1 arrived at a conclusion that the petitioner and Pradeep Malhotra had no license to keep the artifacts/articles and thus, found them guilty for the offences under Sections 3/25 (1) and 14/25(2) of Art and Antiquities Treasures Act, 1972 and convicted them. The offences under Sections 380 and 411 of IPC are distinct to the offences under Sections 3/25 and 14/25(2) of "Act, 1972" as the ingredients of these offences are also distinct. Of course, the legal position is that there cannot be two FIRs against the same accused in respect of the same case but when there are rival versions in respect of the mere episode, they would normally take the shape of two different FIRs and investigation can be carried out under both of them. To quash the FIR No. 33/06 of police station Nihalganj, Dholpur merely on the ground that these so called 11 artifacts were recovered and seized in the FIR No. 146/ 03 of police station Vidhaydhar Nagar, Jaipur is to say the least too technical. The ultimate object of every investigation is to find out whether the offences alleged have been committed and if so, who have committed it.

35. For these reasons, both the aforesaid petitions filed u/s 482 of Cr. P.C. being bereft of merits deserve to be dismissed and thus, stand dismissed accordingly.

36. It is noticed that proceedings of the Court below instituted on the basis of

FIR No. 33/06 registered at police station Nihalganj, Dholpur were stayed vide order dated 29-5-2006 of this Court and the petitioner as also Pradeep Malhotra have been in perpetual incarceration since 20-2-2006 sans the trial. Learned Additional Chief Judicial Magistrate, Dholpur is therefore, directed to conduct the trial on day to day basis and conclude the same as early as possible preferably within a period of four months.