
(2004) 03 RAJ CK 0057

In the Rajasthan High Court

Case No : Criminal Miscellaneous Petition No. 127 of 1999

Vijendra Singh

APPELLANT

Vs

State of Rajasthan

RESPONDENT

Date of Decision : 12-03-2004

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482

Citation : (2004) 03 RAJ CK 0057

Hon'ble Judges : N.N. Mathur, J

Bench : Single Bench

Advocate : Chaitanya Gahlot, for the Appellant; Ramesh Purohit, Public Prosecutor, for the Respondent

Final Decision : Allowed

Judgement

N.N. Mathur, J.—By way of instant petition u/s 482 Cr.P.C. petitioner seeks to quash the order dated 7.11.1998 passed by the Judicial Magistrate, First Class, Churu taking cognizance against him for offence u/s 186 I.P.C.

2. Briefly stated the facts of the case are that one Shishupal Singh SHO Police Station Ratan Nagar presented a compliant before the Judicial Magistrate, First Class, Chum Stating inter alia that on 27.09.1998 Miss S.V. John Nurse working at Sub Health Centre, Poti Village, submitted a written report stating therein that in house at village Poti some persons committed a theft of TV, Refrigerator, Fan etc. Police registered a case and arrested the accused persons Mubarak Khan. Rohitash Singh and Pappu Singh. They were produced before the learned Magistrate. It is further alleged that on 31.10.1998 petitioner met SHO and re-apprehended him for exaggerating the matter and getting the bail application rejected of his relatives. He also threatened him. On this complaint the learned Magistrate has taken cognizance against petitioners for offence u/s 186 I.P.C. by the impugned order.

3. It is contended by the learned counsel that learned Magistrate has committed

error in taking cognizance simply on the basis of complaint submitted by the SHO. He neither sent the complaint for investigation nor he recorded his statement u/s 200 Cr.P.C. It is submitted that even if the allegations made in the complaint are accepted on its face value does not satisfy the essential ingredients of offence u/s 186 I.P.C.

4. I have given thoughtful consideration of the contentions raised by the learned counsel. In my view, the petition deserves to be allowed. Even if the allegations made in the complaint are accepted on its face value it cannot be aid that in any way the petitioners obstructed the complainant in discharging his official duty.

5. Consequently, the misc. petition is allowed. The order of learned Magistrate dated 7.11.1998 taking cognizance against petitioner of offence u/s 186 I.P.C. is quashed and set aside.