

(2020) 12 RAJ CK 0072

In the Rajasthan High Court

Case No : Criminal Miscellaneous (Petition) No. 3581 Of 2020

Yashraj Bhardwaj

APPELLANT

Vs

State Of Rajasthan And Ors

RESPONDENT

Date of Decision : 14-12-2020

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 482

Indian Penal Code, 1860 — Section 323, 341, 376(2)(n), 384

Citation : (2020) 12 RAJ CK 0072

Hon'ble Judges : Satish Kumar Sharma, J

Bench : Single Bench

Advocate : Takhat Singh, F.R. Meena, Narendra Verma

Judgement

1. This Petition has been filed under Section 482 Cr.P.C. for quashing of FIR No.365/2020 registered at Police Station Jawahar Circle, Jaipur for

offences under Sections 376(2)(n), 323, 341 and 384 IPC.

2. Heard Learned counsel for both the sides and perused the material available on record.

3. Learned counsel for the petitioners submits that the petitioner and complainant respondent both fell in love in the year 2018 and they lived in live-in-relationship for more than two years. This fact is evident from photographs, chatting and other documents made available on record. When a cheque

of complainant respondent came to be dishonoured due to insufficient fund in her account, she asked the petitioner to pay the cheque amount.

Afterwards one day suddenly when the petitioner came to his home he found the complainant with some other person in suspicious situation.

Afterwards, this FIR has been lodged with absolutely false allegations only to extort money from the petitioner and to blackmail him. Therefore, the

impugned FIR deserves to be quashed. Further investigation of FIR should be stayed and the petitioner should be granted interim protection from any

sort of coercive action by the police. He placed reliance on Trilok Chand Makhija Vs. State of Raj. [SBCr.Misc, Petition No.6307/2019 decided on

29-1-2020], Vajir Singh Vs. State of Raj. [SBCr. Writ Petition No.163/2019, decided on 30-1-2020], Vineet Kumar Vs. State of U.P. [(2017 13 SCC

369], Prashant Bharti Vs. State (NCT of Delhi) [(2013) 9 SCC 293], Deepak Gulati Vs. State of Haryana [(2013) 7 SCC 675], Dhruvaram Murlidhar

Sonar Vs. State of Maharashtra [(2018 SCC Online SC 3100)A, nup K Paul Vs. State of Raj. [2016 CriLJ 506,]and Vishal Goyal Vs. State of

Rajasthan [SBCr. Misc. Petition No.2232/2018 decided on 8-10-2018].

4. Learned Public Prosecutor has opposed the petition.

5. Issue Notice, returnable within two weeks.

6. Learned Public Prosecutor accepts notice on behalf of the State.

7. It is well settled legal position as expounded by the Hon'ble Supreme Court of India in State of Haryana Vs. Bhajan Lal [1992 (supp) 1 SCC 335]

that an FIR can only be quashed if the contents of FIR do not constitute cognizable offence or the same has been lodged for abuse of process, but the

alleged abuse of process can only be disclosed by due investigation. Further as per P. Chidambaram Vs. Directorate of Enforcement [(2019) 9 SCC

24] the investigation is in the domain of the Investigating Agency and the courts are not supposed to interfere in the investigation. At the same time the

accused is entitled to avail due legal remedies available for protection of his/ her personal liberty.

8. Therefore, it is not appropriate to stay the investigation in the matter, however, having regard to the above submissions but without expressing any

opinion on merits, it is directed that the investigation shall continue and the petitioners shall join the investigation and shall appear before the

Investigating Officer, as and when they are called upon to do so, but the petitioners shall not be arrested without prior notice of seven days.

9. Learned Public Prosecutor is directed to procure the status report of investigation along with case diary.

10. List the matter on 15-1-2021.