



HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Criminal Miscellaneous (Petition) No. 5465/2019
CNR: RJHC020763032019 | URN: CRLMP / 10071U / 2019

1. Jyoti Sharma W/o Premanth Sharma, R/o Matunda, District Bundi.
2. Parvindra Singh S/o Gurunam Singh, R/o B-30, Jawahar Nagar, Housing Board, Bundi.
3. Madan Gopal Sharma S/o Bahali Ram Sharma, R/o 32/32, Indira Colony, Nanwa Road, Bundi.
4. Satnam Singh S/o Suchcha Singh, R/o Alfa Nagar, Tehsil Taleda, District Bundi.

-----Petitioners

Versus

1. State Of Rajasthan, Through PP.
2. Ramphool Mehra S/o Shankar Lal Mehra, R/o 2-D-28, Housing Board, Jawahar Nagar, Bundi.

-----Respondents

Connected With

S.B. Criminal Miscellaneous (Petition) No. 5467/2019
CNR: RJHC020763622019 | URN: CRLMP / 10073U / 2019

1. Jyoti Sharma W/o Premanth Sharma, R/o Matunda, District Bundi.
2. Parvindra Singh S/o Gurunam Singh, R/o B-30, Jawahar Nagar, Housing Board, Bundi.
3. Satnam Singh S/o Suchcha Singh, R/o Alfa Nagar, Tehsil Taleda, District Bundi.
4. Madan Gopal Sharma S/o Bahali Ram Sharma, R/o 32/32, Indira Colony, Nanwa Road, Bundi.

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2. Ramphool Mehra S/o Shankar Lal Mehra, R/o 2-D-28, Housing Board, Jawahar Nagar, Bundi.

-----Respondents



For Petitioner(s) : Mr. Arvind Kumar Gupta, Sr. Advocate
with Mr. Saurabh Pratap Singh and
Mr. Gorang Agarwal
For Respondent(s) : Mr. Vijay Singh Yadav, PP
Mr. Onkar Singh Rajpurohit, PP
Mr. Manan Sharma



HON'BLE MR. JUSTICE ASHOK KUMAR JAIN

Order

05/10/2026

1. These two miscellaneous petitions were preferred by the petitioners for quashing of FIR No. 72/2019 dated 8th March 2019 registered at Police Station Kotwali Bundi, District Bundi for the offence under Sections 420, 467, 468, 471 and 120B IPC and Section 3(1)(iv), 3(1)(v), 3(2)(v) of the SC/ST (POA) Act, 1989, (Amended in 2015), and also for quashing FIR No. 44/2019 dated 6th February 2019 registered at Police Station Kotwali Bundi, District Bundi for the offence under Sections 419, 420, 467, 468, 471 and 120B of IPC.

2. Since these matters pertain to same set of parties, therefore they are being tagged together and we are disposing with a common order.

3. Learned Senior Advocate appearing on behalf of the petitioners while placing reliance upon the grounds of these miscellaneous petitions, has submitted that the non-petitioner/complainant has lodged three FIRs No. 4/2019, No. 44/2019 and 72/2019 at Police Station Sadar Bundi and Kotwali Bundi, and out of which FIR No.4/2019 P.S. Sadar Bundi has already been closed as FR has been filed. He also submitted that now these petitions were filed in respect of remaining two FIR Nos. 44/2019 and



72/2019. He also referred the background of the complainant and submitted that the complainant is a press reporter and his conduct and credentials are doubted on many occasions, which is an admitted fact. He also submitted that the complainant is not a party affected from act, complained in both the FIRs and he is a stranger to these FIRs. He seriously doubted the locus of the complainant and submitted that with ulterior motive the complainant has filed these FIRs and they are not maintainable as the complainant has no locus to file the complaint, against these petitioners.

4. Learned Senior Advocate has further referred the conclusion drawn while closing investigation in relation to FIR No. 4/2019 P.S. Sadar and submitted that these are also the grounds in present FIRs and on same basis these FIRs are required to be quashed as police is harassing the petitioners in an FIR where complainant has no relation with cause of action. He also submitted that the investigation in FIR No. 4/2019 has clearly demonstrated that Darshana and Jyoti are one and same and there is nothing on record which is sufficient to draw any conclusion otherwise than as mentioned by police in FR No. 86/2019 (arising out of FIR No. 4/2019, Police Station Sadar Bundi). He also submitted that in order to constitute an offence it is necessary that there has to be ingredient to constitute an offence but without presence of the ingredients the act complained of cannot be treated as a criminal offence. He also referred the circumstances as mentioned in FIR and submitted that none of them have existed against the petitioners and their role and specific involvement has not been established from bare reading of FIR. He also submitted that the



registration of FIR is not only an abuse of process of law but it is harassment for the petitioners.

5. Learned Senior Advocate while referring Sections 42 and 175 of the Rajasthan Tenancy Act, 1955 has submitted that Section 42 provides for general restriction on sale, gift and bequest of property belong to SC/ST and further there is provision for ejectment for illegal transfer for sub-letting. He submitted that no person can be evicted from any lawful possession without following the due process of law and if the complainant or any other person interested therein may approach the Court of law but cannot take resort to file a criminal case to resolve the dispute of civil nature.

6. Learned Senior Advocate has further placed reliance upon judgment in case of **Priyanka Srivastava and Ors. Vs. State of UP and Ors. : AIR 2015 SC 1758** and **the Commissioner of Police and others Vs. Devender Anand & Ors.: Criminal Appeal No. 834/2017 (order dated 8th August 2019)** and submitted that it is expected of the learned Magistrate to apply its own mind before passing an order under Section 156(3) of CrPC and without compliance of the provision, if any order is passed, same does not give any ground to proceed against the petitioners. He also submitted that invocation of criminal jurisdiction is not an easy process rather it is necessary for the complainant to make out his own case. He also referred order dated 27th January 2026 passed by a Coordinate Bench and submitted that the original complaint has not been filed, despite direction by this Court, which was sent for registration of FIR under Section 156(3) of CrPC. He also submitted that an affidavit as directed by this Hon'ble court



has also not been filed. He also submitted that the state of affairs as referred by him are sufficient to invoke the provision under Section 482 of CRPC for quashing these FIRs.

7. Aforesaid contentions were opposed by learned Public Prosecutor and learned counsel for the complainant. Learned Public Prosecutor has submitted two different reports received from Police Station Kotwali Bundi in relation to FIR No. 44/2019, (S.B. Criminal Miscellaneous (Petition) No. 5467/2019) and FIR No.72/2019 (S.B. Criminal Miscellaneous (Petition) No. 5465/2019) and submitted that the investigation is in progress and role of some of the accused has already been proved from the investigation.

8. Learned counsel for the complainant has submitted that there is no existence of Darshana Devi, rather petitioner Jyoti in conspiracy and connivance with other accused had impersonated herself as Darshana Devi. He also submitted that FIR No. 4/2019 was registered at Police Station Bundi Sadar and at the same time these two FIRs were registered by the complainant, who is a vigilant person and it hardly matter that he is a journalist. He also submitted that the facts narrated in three FIRs are different and this Hon'ble Court cannot enter into the legality of registration of FIR at this stage. He also placed reliance upon judgment in case of **A.R. Antulay Vs. Ramdas Srinivas Nayak and another: 1984 CrLJ 647 (SC)** and submitted that in absence of any statutory provision, a locus standi of a complainant is a concept foreign to criminal jurisprudence. He also submitted that in the CrPC or in BNSS no restriction has been placed on registration of FIR either under Section 156 of CrPC or under Section 175 of BNSS to file a



complaint. He submitted that the act complained of is cognizable offense and police is bound to register FIR and investigate the matter. He also submitted that the FIR cannot be quashed in view of a three Judge Bench judgment in case of **Neeharika Infrastructure Private Limited versus State of Maharashtra and others, reported in 2021 SCC Online SC 315** and the police has statutory right to investigate the matter.

9. Heard learned Senior Advocate for the petitioners and learned counsel for the non-petitioner/complainant and learned Public Prosecutor. Perused the material placed on record also considered the judgments as referred by both the parties.

10. First objection is raised about the locus of complainant Ramphool Mehra for filing of criminal complaint under Section 156(3) of CrPC and subsequent registration of FIR Nos. 44/2019 and 72/2019 at Police Station Kotwali Bundi, District Bundi. The issue has already been considered by a Constitution Bench in case of **A.R. Antulay Vs. Ramdas Srinivas Nayak and another** (supra) wherein it has been observed that it is a well recognized principle of criminal jurisprudence that anyone can set or put the criminal law into motion except where the statute enacting or creating an offense indicates to the contrary. The scheme of CrPC envisages to parallel and independent agencies for taking criminal offenses to the Court even for both the serious offense of murder, it was not disputed that a private complaint can, not only be filed but can be entertained and proceeded with according to law. Locus standi of complainant is a concept foreign to criminal jurisprudence, save and except that where the statute creating an offense provides for the liability of the complainant, by necessary



implication, the general principle gets excluded by such statutory provision.

11. Having considered the legal position, it is clear that the complainant Ramphool Mehra has a locus to file criminal complaint against these petitioners and police is bound to register FIR and investigate the same. The objection with regard to credential of complainant or locus of the complainant are immaterial.

12. Now comes another ground. Section 42 of the Rajasthan Tenancy Act prohibits transfer of land belong to SC/ST to any other person other than SC/ST. This general restriction is by virtue of operation of law, therefore, no land of SC/ST can be transferred to anyone other than person belong to SC/ST community. Section 175 of the Rajasthan Tenancy Act provides procedure for ejectment of illegal transfer for subletting. The procedure has been prescribed for ejectment. The material on record does not indicate that any such proceeding in relation to any ejectment is pending.

13. FIR No. 44/2019 has been registered at Police Station Kotwali Bundi on 06.02.2019 whereas FIR No. 72/2019 was registered on 8th March 2019 at Police Station Kotwali Bundi. The FIR No. 4/2019 was registered on 3rd January 2019 at Police Station Sadar Bundi, wherein FR No. 86/2019 has been submitted after investigation. The FR submitted by Police Station Sadar indicate that there is one FIR No.130/2019 under Section 384, 506 IPC at Police Station Kotwali Bundi, District Bundi against the complainant. The FIR No. 130/2019 at Police Station Kotwali was registered after registration of these FIRs, as mentioned in the instant case but while submitting the closure report in FIR



No.4/2019, it has been mentioned that the investigation in FIR No.72/2019 registered at Police Station Kotwali, District Bundi is in progress and further investigation will be continued in FIR No.72/2019, thus on the ground of mistake of fact, a closure report has been proposed. Nowhere in FR No.86/2019 it has been mentioned that the closure report has been filed as the allegation made by complainant were found as false and untrue, therefore the contention raised in support of the petitioners cannot be accepted in wake of closure report in FIR No.4/2019.

14. Learned Senior Advocate has referred point No.3, 4, 5 and 6 in closure report (FR No. 86/2019) and we have carefully scanned these grounds. The police station Sadar has raised fingers upon complainant for his locus to get registration of this case. The locus is out of question for police and police has no authority to question the locus of any individual when law permits registration of a cognizable offense on any information, therefore the facts narrated at the time of closure in FIR No. 4/2019 are somewhat against the settled law.

15. The allegation in the instant case is that there is no existence of Darshana Devi and one of the petitioner impersonated herself as Darshana Devi in order to commit the act in connivance/conspiracy with others. It is a settled proposition of law that at the stage of FIR, if the complaint on face of it discloses the commission of offense as alleged, the Court does not interfere under Section 482 of CrPC. In case of **P. Swaroopa Rani v. M. Hari Narayana @ Hari Babu : (2008) 5 SCC 765** and **Syed Askari Hadi Ali Augustine Imam & Anr. vs. State (Delhi Admn.) & Anr. : (2009) 5 SCC 528**, it was held that both civil



and criminal proceedings can be maintained on very same set of allegation and there is no bar in simultaneous civil and criminal proceedings.

16. Having considered the entirety of the facts and circumstances of the case, and also the judgment in the case of **State of Haryana vs. Bhajan Lal, reported in 1992 Supp (1) SCC 335**, certain illustrative categories were laid down for quashing of proceedings under Section 482 CrPC, and the same are reproduced as under:

(a) where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused;

(b) where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code;

(c) where the uncontroverted allegations made in the FIR or 'complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused;

(d) where the allegations in the FIR do not constitute a cognizable offence but constitute





only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code;

(e) where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused;

(f) where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party;

(g) where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.

17. In case of **Neeharika Infrastructure Private Limited versus State of Maharashtra and others, reported in 2021 SCC Online SC 315**, a three-judge bench of Hon'ble Supreme Court has laid down following principle of law for considering questioning of criminal case under Section 482 Cr.P.C.:

"57. From the aforesaid decisions of this Court, right from the decision of the Privy



Council in the case of Khawaja Nazir Ahmad (supra), the following principles of law emerge:

- i) Police has the statutory right and duty under the relevant provisions of the Code of Criminal Procedure in Chapter XIV of the Code to investigate into cognizable offences;
- ii) Courts would not thwart any investigation into the cognizable offences;
- iii) However, in cases where no cognizable offence or offence of any kind is disclosed in the first information report the Court will not permit an investigation to go on;
- iv) The power of quashing should be exercised sparingly with circumspection, in the 'rarest of rare cases'. (The rarest of rare cases standard in its application for quashing under Section 482 Cr..P.C. is not to be confused with the norm which has been formulated in the context of the death penalty, as explained previously by this Court);
- v) While examining an FIR/complaint, quashing of which is sought, the court cannot embark upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR/complaint;
- vi) Criminal proceedings ought not to be scuttled at the initial stage;
- vii) Quashing of a complaint/FIR should be an exception and a rarity than an ordinary rule;





viii) Ordinarily, the courts are barred from usurping the jurisdiction of the police, since the two organs of the State operate in two specific spheres of activities. The inherent power of the court is, however, recognised to secure the ends of justice or prevent the abuse of the process by Section 482 Cr.P.C.

ix) The functions of the judiciary and the police are complementary, not overlapping;

x) Save in exceptional cases where non-interference would result in miscarriage of justice, the Court and the judicial process should not interfere at the stage of investigation of offences;

xi) Extraordinary and inherent powers of the Court do not confer an arbitrary jurisdiction on the Court to act according to its whims or caprice;

xii) The first information report is not an encyclopaedia which must disclose all facts and details relating to the offence reported. Therefore, when the investigation by the police is in progress, the court should not go into the merits of the allegations in the FIR. Police must be permitted to complete the investigation. It would be premature to pronounce the conclusion based on hazy facts that the complaint/FIR does not deserve to be investigated or that it amounts to abuse of process of law. During or after investigation, if the investigating officer finds that there is no substance in the application made by the complainant, the investigating officer may file





an appropriate report/summary before the learned Magistrate which may be considered by the learned Magistrate in accordance with the known procedure;

xiii) The power under Section 482 Cr..P.C. is very wide, but conferment of wide power requires the court to be cautious. It casts an onerous and more diligent duty on the court;

xiv) However, at the same time, the court, if it thinks fit, regard being had to the parameters of quashing and the self-restraint imposed by law, more particularly the parameters laid down by this Court in the cases of R.P. Kapur (supra) and Bhajan Lal (supra), has the jurisdiction to quash the FIR/complaint; and

xv) When a prayer for quashing the FIR is made by the alleged accused, the court when it exercises the power under Section 482 Cr.P.C., only has to consider whether or not the allegations in the FIR disclose the commission of a cognizable offence and is not required to consider on merits whether the allegations make out a cognizable offence or not and the court has to permit the investigating agency/police to investigate the allegations in the FIR."

18. Having considered the legal provision in quashing of FIR on the grounds as referred by learned Senior Advocate, in particular, non-compliance of the directions in case of **Priyanka Srivastava and Ors. Vs. State of UP and Ors.** (supra), I am of the considered view that non-submission of original complaint by



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police is not sufficient to draw any conclusion in favour of the petitioners rather the procedure as prescribed for forwarding a complaint under Section 156(3) of CrPC, if not observed by the Magistrate, then it has to be established that the procedure has not been followed but in the instant case, the police has not filed original complaint and same is not sufficient to draw any conclusion that there is serious non-compliance of the direction or the law.

19. After registration of FIR, the matter has been investigated and the investigation report suggest some material collected by the police, therefore, the police has a right to investigate in cognizable offense once FIR has registered.

20. The material on record, as referred by learned Senior Advocate, is not sufficient to draw any conclusion that the facts narrated in complaint does not constitute any offense or FIR is frivolous or vexatious, registered by a person having no locus, therefore, these petitions are liable to be dismissed.

21. In view of discussion made hereinabove, the criminal miscellaneous petitions Nos. 5465/2019 and 5467/2019 are hereby dismissed with pending application, if any. Interim order, if any, stands vacated.

(ASHOK KUMAR JAIN),J

58-59/MR