

## Raisa Vs State Of Rajasthan And Ors

**Court:** Rajasthan High Court

**Date of Decision:** Jan. 5, 2021

**Acts Referred:** Code Of Criminal Procedure, 1973 " Section 107, 151, 482

Indian Penal Code, 1860 " Section 323, 341, 504

Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 " Section 3(1)(d), 3(1)(s), 3(2)(va)

**Hon'ble Judges:** Sandeep Mehta, J

**Bench:** Single Bench

**Advocate:** N.K. Bohra, B.R. Bishnoi, Kaushal Sharma

**Final Decision:** Allowed

### Judgement

The instant misc. petition under Section 482 Cr.P.C. has been filed by the petitioner Smt. Raisa seeking quashing of the FIR No.97/2019 registered at

the Police Station Rajiv Gandhi Nagar, Jodhpur City (West) for the offences under Sections 341, 323, 504 IPC and Sections 3 (1)(d), 3(1)(s) and 3(2)

(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

Brief facts relevant and essential for disposal of the misc. petition are that the respondent No.2/complainant Smt. Saroj W/o Shri Ramlal lodged a

report at the Police Station Rajiv Gandhi Nagar, Jodhpur City (West) alleging therein that her daughter-in-law Smt. Sonu was washing clothes on the

platform outside her house on 27.05.2019 as a result whereof, water started splattering around on which, Raisa who lives in the neighbourhood came

there and started hurling caste based abuses to her daughter-in-law imputing that the complainant's family was of a lower caste and was indulged in

spreading filth and threatened that they should leave the place or else, they would be implicated in false cases by the accused who was a Home-

guard. On the basis of the report aforesaid, the FIR No.97/2019 came to be registered against the petitioner for the offences under Sections 341,

323, 504 IPC and Sections 3(1)(d), 3(1)(s) and 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and

investigation was commenced. The petitioner has approached this Court for quashing of the said FIR on the ground that it is a measure to the

counterblast FIR No.94/2019 lodged by the petitioner against the complainant party on 29.05.2019.

Shri N.K.Bohra, Advocate representing the petitioner drew the Court's attention to the proceedings undertaken by the officers of the Police Station

Rajiv Gandhi Nagar, Jodhpur Metro (West) on 27.05.2019 under Sections 151/107 Cr.P.C. against the complainant and the petitioner. In the complaint

submitted by the IO of the Police Station concerned, it is stated that an information was received regarding two women quarreling with each other on

which, HC Neeb Singh, Ct. Ramaram and Woman Ct. Smt. Sarojbala proceeded to the place of incident i.e, Bombay Yozna Colony, Sector B,

Nayapura Chokha. The police party saw the petitioner and the complainant quarreling with each other. Both the women were asked for the reason of

quarrelling on which the complainant Smt. Saroj stated that she was cleaning her house. Water flowed outside on to the platform of the neighbor on

which, bitter words were exchanged between them. She also stated that because of the very same reason of splattering of water, quarrels often flared

up between them. The police officers tried to pacify the brawling women but could not succeed because both of them were hurling aggressive

insinuations of killing each other on which both of them were arrested preventively and a complaint was submitted to the Assistant Police

Commissioner against the complainant as well as the petitioner under Sections 151/107 Cr.P.C. on 27.05.2019. Shri Bohra drew the Court's attention

to the statement of Sarojbala, the female constable who was one of the members of the police team, who reached to the spot on the day of incident

and pointed out that the female constable nowhere stated that she heard the petitioner hurling caste based abuses to the complainant. He further urged

that the petitioner lodged an FIR No. 94/2019 against the complainant at the earliest opportunity whereas the FIR came to be lodged by the

complainant as late as on 03.06.2019 i.e., after eight days of the incident and thus, no credence can be given to the allegations as set out in the

impugned FIR which deserves to be quashed for being a measure of plain and simple counterblast and as the allegations levelled therein are patently

false and fabricated.

Per contra, learned Public Prosecutor and Shri Kaushal Sharma, learned counsel representing the complainant vehemently and fervently opposed the

submissions advanced by the petitioner's counsel. They urged that the complainant lodged the FIR soon after she was released on bail in the

proceedings under Sections 151/107 Cr.P.C. It was further contended that an FIR cannot be quashed simply on the ground of delay. They further

submitted that the complainant had no motive so as to falsely implicate the petitioner in a case under the SC/ST Act. They urged that the true version

of the incident is set out in the impugned FIR and thus, this Court should refrain from interfering therein while exercising its inherent powers.

I have heard and considered the submissions advanced at bar and have gone through the impugned FIR and the other documents placed on record.

Suffice it to say that the fact regarding the impugned FIR being highly belated is writ large on the face of the record because the incident admittedly

took place on 27.05.2019, whereas the FIR in question came to be registered as late as on 03.06.2019. It is also an admitted position that the

complainant and the accused were both apprehended in connection with proceedings under Sections 151/107 Cr.P.C. on the very day of the incident.

Apparently thus, when the police officials arrived at the spot, the complainant had ample opportunity to make a complaint regarding the accused

having hurled caste based abuses at her. The police officials of Police Station Rajiv Gandhi Nagar who had reached the place of incident on receiving

the report about the quarrel, would definitely have noticed the fact regarding hurling of caste based abuses if at all, there was an iota of truth in such

allegation. However, neither in the complaint filed under Sections 151/107 Cr.P.C. nor in the statement of the Constable Sarojbala, who was an

eyewitness to the occurrence, any such fact is recorded that the petitioner was hurling caste based abuses to the complainant.

The petitioner lodged the FIR No.94/2019 against the complainant of the case at hand on 29.05.2019 i.e., just on the third day of the incident whereas

the FIR of the complainant is highly belated as the same was filed after almost eight days.

In this background, this Court is of the opinion that there is sufficient material on record of the case warranting exercise of the inherent powers of this

Court so as to quash the impugned FIR because on the face of it, the impugned FIR appears to have been lodged with concocted allegations/as a

measure of counterblast and in order to wreak vengeance upon the petitioner. The significant delay in lodging of the FIR and the material facts as

noted in the proceedings under Sections 151/107 Cr.P.C., are far too important so as to be ignored and hence, the impugned FIR No.97/2019

registered at Police Station Rajiv Gandhi Nagar, Jodhpur City (West) and all proceedings sought to be undertaken in furtherance thereof, deserve to

be and are hereby quashed as amounting to be a gross abuse of process of law. The misc. petition is allowed accordingly.