

(2013) 09 RAJ CK 0042

Rajasthan High Court

Case No: Criminal Miscellaneous Petition No. 1464 of 2013

Amar Chand

APPELLANT

Vs

State of Raj. and
Another

RESPONDENT

Date of Decision: Sept. 10, 2013

Citation: (2014) 1 RLW 695

Hon'ble Judges: Atul Kumar Jain, J

Bench: Single Bench

Advocate: Rajesh Shah, for the Appellant; O.P. Singaria, Public Prosecutor, for the Respondent

Final Decision: Disposed Off

Judgement

Atul Kumar Jain, J.

This criminal misc. petition was filed by the petitioner against the order dated 28.5.2013 passed by Chief Judicial Magistrate, Jodhpur District in Criminal Case No. 172/2011. By the impugned order, the learned Magistrate has framed the charges against accused-petitioner Amar Chand u/s 379 IPC read with Section 120B IPC. It is settled law that an order by which charges are framed is revisable and it is almost settled practice of the courts that in matters when the impugned order can be challenged before the Court of revision then in such matters, inherent powers should not be exercised u/s 482, Cr.P.C. by the High Court. Following rulings may be referred in support of my view:

(1) [Mohit alias Sonu and Another Vs. State of U.P. and Another,](#)

(2) [Madhu Limaye Vs. The State of Maharashtra,](#)

(3) [Sanjay Bhandari Vs. State of Rajasthan,](#)

(4) P.I. Industries Limited v. State of Rajasthan, S.B. Cr. Misc. Pet. No. 41/2008 decided by the Rajasthan High Court, Jodhpur on 5.2.2009.

Looking to the opposite view expressed in [Dhariwal Tobacco Products Ltd. and Others Vs. State of Maharashtra and Another](#), the matter was referred by the Hon"ble Supreme Court to the Larger Bench in Special Leave to Appeal (Cri.) No. 3314/2009, Prabhu Chawla v. State of Rajasthan, on 5.7.2013 on the question that if the matter is revisable then whether powers u/s 482, Cr.P.C. should be exercised by the courts or not, Till the judgment of the Larger Bench of the Hon"ble Supreme Court comes, this Court is bound to follow the ruling in Mohit @ Sonu case (supra) of the Hon"ble Supreme Court.

2. The accused-petitioner aggrieved by the impugned order, by which charges are framed against him, has a special provision under the Code for redressal of his grievance by way of filing revision u/s 397 Cr.P.C. and so he cannot invoke the inherent powers of this Court u/s 482, Cr.P.C. because the order by which the charges are framed against him, is a final order and the revision can very well be maintained against such order.

3. Thus, the appropriate remedy available to the accused-petitioner is to approach the revisional Court (which is the Court of Sessions Judge, Jodhpur District, Jodhpur) in the present matter u/s 397, Cr.P.C. if he so advised and in that even the period consumed in the disposal of this petition shall not come in the way for the purpose of limitation. The petitioner is directed to appear before the learned Sessions Judge, Jodhpur District, Jodhpur on 27.9.2013 at 10.00 a.m. The criminal misc. petition is disposed of accordingly. The stay petition also stands disposed accordingly. A copy of this order be sent to both the courts below immediately.