

Ishwar and Others Vs State of Rajasthan

Court: Rajasthan High Court

Date of Decision: March 24, 1989

Acts Referred: Criminal Procedure Code, 1973 (CrPC) â€” Section 220, 482
Penal Code, 1860 (IPC) â€” Section 147, 331, 353, 394

Citation: (1989) WLN 144

Hon'ble Judges: V.S. Dave, J

Bench: Single Bench

Judgement

V.S. Dave, J.

This is an application u/s 482 Cr.P.C. moved with a prayer that criminal case No. 80/85, State v. Inder and others pending

in the court of Addl. Chief Judicial Magistrate No. 1, Ajmer be transferred to the court of Chief Judicial Magistrate (E.O. Cases), Jaipur and be

tried along with case No. 47/87 Sahab Singh Ishwar and others.

2. Brief facts leading to this application are that Shankerlal Bachhani filed a report at Police Station Sadar Kotwali Ajmer on 14-9-84 where in it

was, alleged by him that after obtaining a warrant for search of the shop under the orders of Asstt. Collector, Central Excise and Customs. He

along with other members of the staff raided the shop of Ishwar who was dealing in cut-pieces, (cloth piece. When he showed the warrant to the

owner and started search, Ishwar, his brothers Hail, Sunder and his friend Lakhani who is serving in Railways, along with his two sons who were

also running a cloth-shop in the name and style of M/s. Sasta Kapda Bhandar, attacked the raiding party and threatened with death. Hari and

Sunder with the steel measuring rod and iron shod inflicted injuries on his person, as a result of which he sustained injuries on both hands. He was

pushed down on the ground and was also beaten with fists and legs. His colleague Malsingh and constable Kishan Singh also sustained injuries. On

receipt of this report FIR No. 129/84 was taken down and a case was registered for offence under Sections 147, 331, 353 and 394 IPC where in

after investigation charge-sheet was filed and is pending before Addl. Chief Judicial Magistrate No. 1, Ajmer as case No. 80/85. Regarding the

same incident Sahab Singh Asstt. Superintendent Prosecution, Central Excise, Jaipur also submitted a complaint in the court of Special Chief

Judicial Magistrate (E O), Jaipur which has been registered as complaint No. 47/87, Sahab Singh v. Ishwar, Sewakram and Ors. An application

was submitted before this court for transfer of the case: Sahab Singh v. Ishwar to Ajmer but the same was not allowed precisely because the Chief

Judicial Magistrate (E O), Jaipur is Special Court having jurisdiction all over the State; hence this application.

3. It is submitted by the learned Counsel for the petitioner that since the facts constituting alleged offences are same, it would be in the interest of

justice if both the cases are tried together as is also the intention of the legislature which is evident from the provision of Section 220(3) Cr.P.C. It

is submitted that if it is not done there are chances of conflicting decisions as well. Notice of the petition was given to Shri N.C. Chaudhary,

standing counsel for the UOI and the department, who frankly stated that he has no objection if the case is being transferred to the court of Chief

Judicial Magistrate (EO cases), Jaipur.

4. I have given my earnest consideration to the circumstances of the case and I am of the opinion that it would advance the cause of justice if both

the cases are tried and disposed of by the same court simultaneously and learned Magistrate deems it proper may consolidate them also if they fall

within the scope of Section 220(3) Cr.P.C. which reads as under:

If the acts alleged constitute an offence falling within two or more separate definition of any law in force for the time being by which the offences

are defined or punished, the person accused of them may be charged with and tried at one trial for each of such offences.

The learned Chief Judicial Magistrate (EO), therefore, on transfer of the case shall examine the nature of the offence alleged and the acts

constituting offences and shall pass necessary orders in that respect.

5. It is, therefore, directed that the learned Chief, Judicial Magistrate, Ajmer shall withdraw the file of case No. 80/85 State of Rajasthan v. Inder

from the court of Additional Chief Judicial Magistrate No. 1, Ajmer and transfer the same to the court of Chief Judicial Magistrate (EO Cases),

Jaipur who shall try and dispose of the cases in accordance with law along with case No. 47/87 Sahab Singh v. Ishwar and Ors.