
Deepak Jain Vs State of U.P. and Others

Criminal M.W.P. No. 6538 of 2001

Court: Allahabad High Court

Date of Decision: May 17, 2002

Acts Referred:

Constitution of India, 1950 " Article 226#Criminal Procedure Code, 1973 (CrPC) " Section 482#Penal Code, 1860 (IPC) " Section 420, 467, 468, 471

Citation: (2002) 2 ACR 1615

Hon'ble Judges: S.R. Singh, J; R.K. Dash, J

Bench: Division Bench

Advocate: Ashok Kumar, for the Appellant; A.G.A., for the Respondent

Final Decision: Dismissed

Judgement

R.K. Dash, J.

In this writ petition, prayer has been made to quash the first information report in Case Crime No. 321 of 2001, under

Sections 420/467/468/471, Indian Penal Code, police station Kalyanpur, district Kanpur Nagar.

2. The background facts giving rise to the aforesaid case as narrated in the first information report may briefly be stated thus:

The trade tax officer (Mobile Squad) detained a truck carrying goods dispatched under various bills standing in the name of M/s. Maya Product

India, 18/211 Maithan Near Basant Cinema, Agra. The informant being proprietor of the said firm was noticed to enlighten whether the goods

were dispatched by his firm. Accordingly, he came to the trade tax office and to his utter surprise found that the bills are forged and have been

printed in the name of his firm. So he lodged first information report alleging that the concerned transport company having printed the bills in the

name of his firm, transported the goods in order to evade tax and to harm the reputation and the goodwill of his firm. On the basis of the said

report, the police registered the case as aforesaid and took up investigation. The Petitioner as a proprietor of M/s. Pragati Transport Company,

Agra, has filed the present case seeking quashing the first information report alleging, inter alia that the informant, Respondent No. 3 herein,

approached his company on 1.9.2001 for transportation of goods from Agra. Necessary documents along with goods were handed over by him

to his agent and after completing requisite formalities, goods were dispatched in a truck bearing No. M. P. 9 KA-4045. The truck was, however,

intercepted by the mobile squad of the trade tax department and goods along with truck were taken to the trade tax office at Lakhanpur in the

district of Kanpur Nagar for verification. The allegations made in the first information report by the Respondent No. 3 are all false and baseless and

no offence is made out under Sections 420/467/468/471, Indian Penal Code against him as well as the driver and owner of the truck and,

therefore, the impugned first information report should be quashed in exercise of writ jurisdiction under Article 226 of the Constitution.

3. There are two series.--One by the informant and other by the Petitioner, proprietor of the transport company. According to the informant, the

bills are forged and do not belong to his firm and are not issued by his firm. Whereas the case of the Petitioner is that the informant deposited the

goods for transportation and handed over the bills to his agent for transportation. This plea of the Petitioner cannot be accepted on its face value to

throw the F.I.R. allegations overboard. A reading of F.I.R. prima facie discloses commission of a cognizable offence which requires to be

investigated and taken to logical end by the police. It is well-settled by a catena of decisions of the Apex Court as well as of this High Court and

other High Courts that extraordinary writ jurisdiction or inherent power to quash a criminal proceeding should be exercised very sparingly and with

circumspection and that too in the rarest of rare cases. Founding fathers of the Constitution have not provided under what circumstances writ

jurisdiction in such matters should be exercised by the High Court. So when the Court is invested with unbridled and unrestricted power, its

exercise should be with circumspection where law so demands.

4. In State of Haryana and others Vs. Ch. Bhajan Lal and others, , the Apex Court has laid down the categories of cases by way of illustrations

wherein power under Article 226 of the Constitution or u/s 482, Criminal Procedure Code can be exercised to quash an F.I.R. or a complaint and

the categories are as under:

(i) 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.

(ii) 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 u/s 156(1) of the Code except under an order of Magistrate within the purview of Section 155(2) of the

Code.

(iii) Where the uncontroverted allegations made in the F.I.R. 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.

(iv) Where the allegations in the F.I.R. 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 u/s 155(2) of the Code.

(v) Where the allegations made in the F.I.R. 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.

(vi) 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 proceeding 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.

(vii) Where the 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.

5. In the case on hand, as stated earlier, the allegations set out in the first information report constitute a cognizable offence requiring investigation

by the police. Any interference by the Court in exercise of writ jurisdiction would amount to encroaching upon the investigation which is exclusively

within the domain of the police. The plea of innocence as pleaded by the Petitioner cannot be looked into at this stage when investigation is in

embryo. The offence as alleged is serious in nature and it was allegedly committed in order to defraud the State and, therefore, the Court should be

loathe to interfere with the investigation in exercise of writ jurisdiction under Article 226 of the Constitution.

6. In view of the discussions made above, criminal miscellaneous writ petition fails and the same is dismissed.