

CASE DETAILS

AMBALAL PARIHAR

v.

STATE OF RAJASTHAN & ORS.

(Criminal Appeal No. 3233 of 2023)

OCTOBER 16, 2023

[ABHAY S.OKA AND PANKAJ MITHAL, JJ.]

HEADNOTES

Issue for consideration: Impugned order passed in Civil Writ Petition, filed by the second to fourth respondents for clubbing of eight FIRs filed against them, directing that no coercive action be taken against the aforesaid respondents in connection with the said FIRs, if justified.

Administration of Justice – Abuse of process of law – Forum hunting – Six FIRs were registered against the second to fourth respondents, at the instance of the appellant – Two other FIRs were also registered against them by some other first informants, respondents sought quashing thereof, however, no interim relief was granted – Then a Writ Petition was filed on the civil side by the aforesaid respondents for clubbing the eight FIRs – Single Judge directed that no coercive action be taken against the respondents in connection with all eight FIRs – Appellant alleged forum hunting by respondents stating that the Civil Writ Petition for consolidation of eight FIRs was filed to avoid the roster Judge who had not granted interim relief:

Held: Action of filing Civil Writ Petition by the respondents was nothing but a gross abuse of process of law and it was a classic case of forum hunting – It is wondered how a Civil Writ Petition for clubbing FIRs could be entertained – In the roster notified by the Chief Justice, there is a separate roster for Criminal Writ Petitions – If the Courts allow such sharp practices, the roster notified by the Chief Justice will have no meaning – The Judges have to follow discipline and ought not to take up any case unless it is specifically assigned by the Chief Justice – A Judge can take up a case provided either the cases of that category have been assigned to him as per the notified roster or the particular case is specifically assigned by the Chief

Justice – Taking up a case not specifically assigned by the Chief Justice is an act of gross impropriety – Though a Civil Writ Petition was filed, the Judge ought to have converted it into a Criminal Writ Petition which could have been placed only before the roster Judge taking up Criminal Writ Petitions – Civil Writ Petition dismissed – Therefore, the impugned order does not survive – Costs of Rs.50,000/- imposed on the respondents – The conduct of the respondents be brought to the notice of the concerned Court which is hearing petitions u/s.482, CrPC filed by them for quashing FIRs – Code of Criminal Procedure, 1973 – s.482. [Paras 7, 8 and 10]

OTHER CASE DETAILS INCLUDING IMPUGNED ORDER AND APPEARANCES

CRIMINAL APPELLATE JURISDICTION: Criminal Appeal No. 3233 of 2023.

From the Judgment and Order dated 08.05.2023 of the High Court of Judicature for Rajasthan at Jodhpur in SBCWP No. 6277 of 2023.

Appearances:

Pranab Prakash, Yash Chaturvedi, Advs. for the Appellant.

Ashutosh Shekhar Paarcha, Ms. Neha Kapoor, Milind Kumar, Sanyat Lodha, Ms. Sanjana Saddy, Ms. Surbhi Arora, Advs. for the Respondents.

JUDGMENT / ORDER OF THE SUPREME COURT

JUDGMENT

ABHAY S.OKA, J.

Leave granted.

2. Heard the learned counsel appearing for the parties.

3. This is a shocking case of gross abuse of process of law by the second to fourth respondents. At the instance of the appellant, six First Information Reports were registered against the second to fourth respondents. There were two other First Information Reports registered against the same respondents by some other first informants. Two Criminal Miscellaneous Petitions were filed by the second to fourth respondents for quashing the First Information Reports filed at the instance of the other first informants.

4. Our attention is invited to the orders passed on the two petitions under Section 482 of the Code of Criminal Procedure, 1973 (for short “CrPC”) filed by the second to fourth respondents. The petitions came up before a learned Single Judge of the Rajasthan High Court in April, 2023 in which no interim relief was granted.

5. Thereafter, the second to fourth respondents took a very extraordinary step. On 5th May, 2023 a Writ Petition was filed on the civil side by the second and fourth respondents in which a prayer was made for issuing a writ of mandamus for clubbing the eight First Information Reports and consolidating them into one. The impugned order has been passed in the said Civil Writ Petition on 8th May, 2023. The learned Single Judge of the High Court directed that no coercive action shall be taken against the second to fourth respondents in connection with all eight First Information Reports.

6. The appellant has made a very serious allegation by relying upon the then prevailing roster notified by the Chief Justice of the Rajasthan High Court. The allegation is that as the learned Single Judge taking up assignment of the criminal matters dealing with Section 482 CrPC did not grant interim relief to the second to fourth respondents in two cases, this method of filing a Civil Writ Petition was invented in which a prayer was made for consolidation of eight First Information Reports. The allegation is that this was done to avoid the roster Judge who had not granted interim relief. Not only that this course was adopted, the second to fourth respondents in the Civil Writ Petition prayed for interim relief directing that no coercive action shall be taken against the second to fourth respondents in relation to all eight First Information Reports. The complainants were not impleaded in the Civil Writ Petitions. Interestingly, both in civil and criminal cases, the same advocate represented the second to fourth respondents.

7. This is a classic case of forum hunting by the second to fourth respondents. It transpires that notwithstanding the aforesaid relief granted on 8th May, 2023 in the Civil Writ Petition, in the petitions under Section 482 of CrPC for quashing, on 1st June, 2023 the second to fourth respondents persuaded the concerned Bench to grant relief of not taking coercive action against them.

8. Thus, this is a case of gross abuse of process of law. We wonder how a Civil Writ Petition for clubbing First Information Reports could be

entertained. In the roster notified by the Chief Justice, there is a separate roster for Criminal Writ Petitions. If the Courts allow such sharp practices, the roster notified by the Chief Justice will have no meaning. The Judges have to follow discipline and ought not to take up any case unless it is specifically assigned by the Chief Justice. A Judge can take up a case provided either the cases of that category have been assigned to him as per the notified roster or the particular case is specifically assigned by the Chief Justice. Taking up a case not specifically assigned by the Chief Justice is an act of gross impropriety. Though a Civil Writ Petition was filed, the learned Judge ought to have converted into a Criminal Writ Petition which could have been placed only before the roster Judge taking up Criminal Writ Petitions.

9. We are sure that this conduct of the second to fourth respondents will be considered by the concerned Court taking up petitions under Section 482 CrPC for quashing the First Information Reports.

10. This is a fit case where the second to fourth respondents must be saddled with costs. We quantify the costs amount at Rs.50,000/- (Rupees fifty thousand).

11. Hence, we allow the appeal by passing the following order:

- (a) We hold that action of filing SB Civil Writ Petition No.6277 of 2023 by the second to fourth respondents was nothing but a gross abuse of process of law and it was a classic case of forum hunting;
- (b) Accordingly, we dismiss SB Civil Writ Petition No.6277 of 2023. Therefore, the impugned order does not survive;
- (c) We direct the second to fourth respondents to pay costs quantified at Rs.50,000/- (Rupees fifty thousand) to the Rajasthan State Legal Services Authority within a period of one month from today and to produce the receipt before this Court within a period of six weeks from today;
- (d) As narrated earlier, the conduct of the second to fourth respondents shall be brought to the notice of the concerned Court which is hearing petitions under Section 482 CrPC filed by the second to fourth respondents; and

(e) We direct the Registrar (Judicial) of the Rajasthan High Court to place a copy of this order in all eight petitions under Section 482 of CrPC filed by the second to fourth respondents for quashing First Information Reports.

12. The appeal is allowed on the above terms.

Headnotes prepared by:
Divya Pandey

Appeal allowed.