

**Babu Ram Vs. State and ors**

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**Court :** Rajasthan Jodhpur

**Decided On :** Feb-14-2014

**Appellant :** Babu Ram

**Respondent :** State and ors

**Judgement :**

S.B.CRIMINAL MISC.

PETITION NO.771/2012 Baburam Prajapat V/S State of Rajasthan & ORS.1 IN  
THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

ORDER

S.B.CRIMINAL MISC.

PETITION NO.771/2012 Baburam Prajapat V/S State of Rajasthan & ORS.Date of  
Order : 14th February, 2014 PRESENT HONBLE MR.JUSTICE VIJAY BISHNOI  
Mr.D.N.Yadav, for petitioner.

Mr.Anish Bhurat, Public Prosecutor.

Mr.Narpat Singh, for respondent Nos.3 to 5.

None present for respondent No.2.

BY THE COURT :- This Criminal Misc.

Petition under Section 482 Cr.P.C.has been preferred by the petitioner against the order dated 02.03.2012 passed by the learned Sessions Judge, Jaisalmer (for short 'the revisional court' hereinafter) in criminal revision petition No.33/2011 filed by the respondent Nos.3 to 5, whereby the revisional court has accepted the revision petition and quashed the order dated 17.02.2011 passed by the Judicial Magistrate (FiRs.Class).Jaisalmer (for short 'the trial court' hereinafter).whereby the trial court has taken cognizance against S.B.CRIMINAL MISC.

PETITION NO.771/2012 Baburam Prajapat V/S State of Rajasthan & ORS.2 the respondent Nos.2 to 5 for the offence punishable under Section 182, 500, 506 read with Section 120-B IPC.

Brief facts of the case are that the petitioner filed a complaint in the trial court on 13.04.2011 and the trial court has sent it to the police for further investigation under Section 156-(3) Cr.P.C.to the Police Station Mohangarh, District Jaisalmer.

The Investigating Officer-S.H.O., Police Station Mohangarh, District Jaisalmer filed a negative final report before the trial court, while concluding that no such offence, as alleged in the complaint, has taken place in the jurisdiction of the Police Station Mohangarh, District Jaisalmer.

The petitioner thereafter, filed a protest petition before the trial court, which was accepted vide order dated 17.02.2011 and cognizance was taken against the petitioner for the offences under Sections 182, 500, 506 read with 120-B IPC.

Being aggrieved with the order dated 17.02.2011, respondent Nos.3 to 5 have preferred a revision petition before the revisional court and the revisional court, S.B.CRIMINAL MISC.

PETITION NO.771/2012 Baburam Prajapat V/S State of Rajasthan & ORS.3 vide impugned order dated 02.03.2012 has accepted the said revision petition and quashed the order dated 17.02.2011 of taking cognizance against the respondent No.2 to 5.

While challenging the order dated 02.03.2012, the petitioner has filed this Criminal Misc.

Petition and contended that the revisional court has grossly erred in quashing the order dated 17.02.2011 passed by the trial court for taking cognizance against the respondent Nos.2 to 5 under Section 182, 500, 506 read with Section 120-B IPC and, therefore, the order dated 02.03.2012 passed by the revisional court is liable to be quashed.

Learned counsel for the petitioner has argued that once the trial court after taking into consideration the evidence produced by the petitioner has taken cognizance, the revisional court has no jurisdiction to set aside the said order of taking cognizance by supplying its own reasoning.

Learned counsel for the petitioner has therefore, prayed that the order dated 02.03.2012 passed by the revisional court may kindly be quashed.

Per contra, learned Public Prosecutor S.B.CRIMINAL MISC.

PETITION NO.771/2012 Baburam Prajapat V/S State of Rajasthan & ORS.4 and the learned counsel for the respondent Nos.3 to 5 has supported the orders passed by the revisional court and submitted that there is no force in this Criminal Misc.

Petition and the same is liable to be rejected.

Heard learned counsel for the parties as well as the learned Public Prosecutor and perused the impugned orderRs.The revisional court, in its order dated 02.03.2012 has observed that there was no material available with the trial court to take a different view from the conclusion of the police that no such offence has been committed by the respondent Nos.2 to 5 in the jurisdiction of the Police Station Mohangarh, District Jaisalmer.

The revisional court has observed that it was necessary that any such material contrary to the conclusion of the final report should be available before the trial court.

The revisional court has also observed that there is no evidence available on record to suggest that respondent No.2- Ramesh Borana had filed a false

complaint against the petitioner at the instance of respondent Nos.3 to 5.

The trial court has also observed that the petitioner has S.B.CRIMINAL MISC.

PETITION NO.771/2012 Baburam Prajapat V/S State of Rajasthan & ORS.5 instituted cases for defamation against the respondents in the various courts at Jodhpur and Jaisalmer also.

After observing this, the revisional court has found that no prima facie case against the respondent Nos.2 to 5 for taking cognizance for the offence punishable under Section 182, 500, 506 read with 120-B IPC is made out and has accepted the revision petition filed on behalf of the respondent Nos.3 to 5.

After perusing the orders passed by the trial court as well as the revisional court, this Court find that the trial court has not given any reason for disagreeing with the conclusion of the Investigating Officer that no offence as alleged in the complaint has been committed by the respondent Nos.2 to 5 in the jurisdiction of the Police Station Mohangarh, District Jaisalmer.

The trial court has not even observed that the said conclusion of the Investigating Officer was not correct or the offence as alleged in the complaint took place in the jurisdiction of the Police Station Mohangarh, District Jaisalmer.

The trial court has also S.B.CRIMINAL MISC.

PETITION NO.771/2012 Baburam Prajapat V/S State of Rajasthan & ORS.6 not discussed about the evidence to hold that the respondent Nos.2 to 4 are prima facie, responsible for commission of offence as alleged in the complaint.

In such circumstance, this Court does not find any illegality in the order passed by the revisional court whereby the order of taking cognizance against the respondents have been quashed.

Hence, there is no force in this Criminal Misc.

Petition and the same is hereby dismissed.

[VIJAY BISHNOI].,J.

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