

**Mohan Ram and ors Vs. State and anr**

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**SooperKanoon Citation :** [sooperkanoon.com/1143844](http://sooperkanoon.com/1143844)

**Court :** Rajasthan Jodhpur

**Decided On :** May-27-2014

**Appellant :** Mohan Ram and ors

**Respondent :** State and anr

**Judgement :**

1 IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

ORDER

S.B.CRIMINAL MISC.

PETITION NO.1632/2013 Mohan Ram & ORS.versus State of Rajasthan & Anr.

Date of order : 27.05.2014 PRESENT HON'BLE Mr.JUSTICE VIJAY BISHNOI  
Mr.S.K.Bishnoi for petitioneRs.Mr.Vikram Rajpurohit, Public Prosecutor.

BY THE COURT: This criminal misc.

petition under Section 482 Cr.P.C.has been filed by the petitioners against the order dated 4.1.2013 passed by the Additional Sessions Judge, Parabatsar (hereinafter referred to as 'the revisional court') whereby the revision petition filed against the order dated 31.3.3012 passed by the Judicial Magistrate, FiRs.Class, Makarana (hereinafter referred to as 'the trial court') in Original Case No.252/2001, was dismissed.

Vide order dated 31.3.2012 charges have been framed against the petitioners for the offences punishable under Sections 147, 117/149, 348/149, 330/149 I.P.C. by the trial court.

2 Brief facts of the case are that on the basis of a complaint dated 20.8.1999 filed by the respondent No.2, an FIR was registered against 7 named persons and 200-250 unknown persons.

The police after investigation has filed challan against the petitioners. The trial court framed charges against the petitioners for the aforesaid offences vide order dated 6.1.2010.

The order dated 6.1.2010 was challenged before the revisional court and the revisional court after hearing the parties has remanded the matter back to the trial court with a direction to pass fresh order after following the provisions of Cr.P.C. On remand, the learned trial court framed charges against the petitioners for the aforesaid offences vide order dated 31.3.2012.

The revision petition filed by the petitioners against the order dated 31.3.2012 was dismissed by the revisional court vide impugned order dated 4.1.2013, against which the petitioners have preferred this misc.

petition.

The learned counsel for the petitioners has submitted that the trial court as well as the revisional court have erred in not taking into consideration the material available on record.

On the basis of evidence available on record, no charge can be framed against the petitioners for the aforesaid offences.

It is contended that the FIR does not reveal allegation of abatement for committing offence under Section 117 I.P.C. and ingredients of commission of offence under Sections 330 and 348 are also not disclosed in the charge sheet.

It is also contended that the charge sheet also does not reveal ingredients of section 149 I.P.C. and, therefore, the order passed by the trial court of framing

charges against the petitioners for the offence punishable under Sections 117 and 149 I.P.C.along with other offences is liable to be quashed and set aside and the order passed by the revisional court dated 4.1.2013 is also liable to be quashed and set aside.

Per contra, learned Public Prosecutor has submitted that prima facie evidence regarding commission of offence punishable under Sections 117 and 149 I.P.C.is available on record and, therefore, the learned courts below has not committed any illegality in passing the impugned order.

Heard learned counsel for the petitioners and perused the impugned order as well as the charge sheet.

The trial court is required to go through the evidence collected and submitted by the investigating agency along with the charge sheet.

The learned trial court after taking into consideration the evidence collected during the course of investigation has framed charges against the petitioners for the aforesaid offences.

The revisional court has also considered the relevant material available on record and has affirmed the order passed by the trial court.

After going through the material available on record, this Court is of the opinion that the courts below have not committed any illegality in passing the impugned orders because the evidence of commission of offence under Sections 117 and 149 I.P.C.is available on record.

Apart from that, this petition has been filed under Section 482 Cr.P.C., but, in fact, it is second revision petition which is clearly barred as per Section 397(3) Cr.P.C.Hence, there is no force in this criminal misc.

petition.

The same is hereby dismissed.

The stay petition is also dismissed.

[VIJAY BISHNOI].,J.

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