

Hem Chandra Vs. the State of Rajasthan

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Court : Rajasthan

Decided On : Jan-23-1991

Reported in : 1991(1)WLN149

Judge : B.R. Arora, J.

Appeal No. : S.B. Criminal Miscellaneous Petition No. 133 of 1989

Appellant : Hem Chandra

Respondent : The State of Rajasthan

Disposition : Petition dismissed

Judgement :

B.R. Arora, J.

1. This miscellaneous petition is directed against the order dated July 5, 1988, passed by the Additional Chief Judicial Magistrate No. 1, Udaipur, by which the learned Additional Chief Judicial Magistrate framed the charges Under Sections 420/34 and 406/34, I.P.C. against the petitioner.

2. Mr. Banshi Lai filed a written report at the Police Station, Surajpole, Udaipur, against the petitioner Under Sections 420, 406, 120B, 408 and 409/34, I.P.C. The police, after necessary investigation, presented the challan against the petitioner Under Sections 420, 406, 120B, 408 and 409/34, I.P.C. in the Court of the

Additional Chief Judicial Magistrate No. 1, Udaipur. The learned Judicial Magistrate took cognizance and issued process and thereafter heard the arguments for framing the charge. After hearing the arguments, the learned Judicial Magistrate framed the charges against the petitioner Under Section 420/34 and 406/34, I.P.C. It is against this order that the present petition has been filed.

3. Heard learned Counsel for the petitioner and the learned Public Prosecutor and perused the record.

4. At the time of framing the charges, the truth, veracity and the effect of the evidence, which the prosecution proposes to produce are not to be meticulously examined. At this stage, the Court has only to see whether the unrebutted evidence, which the prosecution is to adduce, makes-out a case for conviction and if it is so then the charge can be framed. But if the unrebutted evidence itself does not disclose that the accused has committed the offence, then the charge should not be framed. The Court, while framing the charge, is required to evaluate the materials and documents on record with a view to find-out if the facts emerging therefrom, taken put at their face value, disclose the presence of all the ingredients constituting the alleged offence and for this purpose, the Court has to evaluate the evidence at the initial stage, and even the presence of a strong suspicion is sufficient to frame the charge against the petitioner. After going through the record of the case. I am of the opinion that the order passed by the learned lower Court, framing the charges against the petitioner, does not suffer from any infirmity and does not require any interference. The order passed by the learned lower Court is just and proper.

5. The result is that this miscellaneous petition, filed by the petitioner has got no force and is hereby dismissed.