

Ashok Dev Vs. Bishan Swarup

Ashok Dev Vs. Bishan Swarup

SooperKanoon Citation : sooperkanoon.com/760388

Court : Rajasthan

Decided On : Aug-20-1980

Reported in : 1980WLN(UC)332

Judge : K.S. Sidhu, J.

Appeal No. : S.B. Criminal Misc. Application No. 13 of 1980

Appellant : Ashok Dev

Respondent : Bishan Swarup

Disposition : Petition dismissed

Judgement :

K.S. Sidhu, J.

1. This application purports to have been filed under Section 482 Cr. PC for quashing the order dated November 13, 1978, whereby the learned Magistrate took cognizance of offences punishable under Sections 427 and 448 IPC on a police report in accordance with the provisions of Section 190(1)(b) Cr. PC.

2. The application is wholly unusual. It will be seen that the impugned order is revisionable order under Sections 397 and 401 Cr. PC and as such it was open to the petitioner to challenge it by way of a petition of revision before this Court or in the Court of Sessions. The law is well settled that if there is a specific remedy

provided in law, the aggrieved party must take recourse to that remedy In that view of the matter the petitioner cannot legitimately invoke the extra-ordinary jurisdiction of this Court under Section 482 Cr. PC to challenge the order in question which as already stated is a revisable order under the Code of Criminal Procedure.

3. In substance, the present application is really a petition of revision It has been so called at an application under Section 482 Cr. PC to circumvent the provisions of the Limitation Act. The impugned order was passed on November 13, 1978. The period of limitation for filing a petition of revision against this order expired on February 12, 1979. The present petition was filed on January 22, 1980. It is thus hopelessly barred by limitation. In either view of the matter therefore this petition cannot be entertained. It is hereby dismissed.

4. Learned counsel for the petitioner prayed for a certificate for appeal to the Supreme Court. This is not a fit case for grant of such a certificate. The request for certificate for appeal to the Supreme Court is therefore declined.