

**Hem Singh Vs. the State of Rajasthan**

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**SooperKanoon Citation :** [sooperkanoon.com/762091](http://sooperkanoon.com/762091)

**Court :** Rajasthan

**Decided On :** Feb-14-1991

**Reported in :** 1991WLN(UC)91

**Judge :** B.R. Arora, J.

**Appeal No. :** S.B. Criminal Miscellaneous Petition No. 307 of 1989

**Appellant :** Hem Singh

**Respondent :** The State of Rajasthan

**Disposition :** Petition dismissed

**Judgement :**

**B.R. Arora, J.**

1. This miscellaneous petition is directed against the order dated January 16, 1989, passed by the Munsif and Judicial Magistrate, Sojat, by which the learned Magistrate framed charges against the petitioner under Sections 420, 468 and 471 read with Section 109 IPC.

2. Sohan Lal, Assistant Engineer, R.S.E.B. Kharchi, lodged a First Information Report at the Police Station, Marwar Junction against Champa Lal and Hem Singh on the allegation that on March 31, 1985, Champalal and Hem Singh arranged a collection-camp at village Janura for the collection of the electricity dues from the

villagers of village Janura and made recoveries from that village from various subscribers. After the collection of the money from the villagers, the existing bills, the accused labour on but later on deposited lesser amount after fabricating and preparing the new bills. On the basis of this report, a case under Sections 469, 468, 471 and 420 IPC was registered against Champa Lal. The police, after necessary investigation, presented a challan against Champa Lal and Hem Singh for the offences under Sections 467, 468, 420 and 471 IPC. The learned Magistrate took cognizance against both the accused for these offences and after giving an opportunity of hearing to them, framed charges against Champa Lal as well as Hem Singh. Against Hem Singh, the charges were framed under Sections 420, 468 and 471 read with Section 109 IPC.

3. I have heard the learned Counsel for the petitioner and the learned Public Prosecutor and perused the order passed by the Court below as well as the record of the case.

4. After perusal of the record and the order passed by the Court below, 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 the order cannot be said to be, in anyway, perverse or illegal. The learned trial Court has considered every material on record in support of the charges and he has, also, given the reasons why the charges against the petitioner under these Sections are warranted. If a Magistrate, after hearing the parties, frames a charge and, also, makes an order in support thereof, the law must be allowed to take its recourse. It has been contended by the learned Counsel for the petitioner that from a bare reading of the evidence collected by the prosecution, particularly the evidence of Chola Ram, no part has been assigned to the petitioner and, therefore, no charge could be framed against the petitioner. This contention, raised by the learned Counsel for the petitioner, in my view, cannot be said to be wholly true. Though no part has been assigned to the petitioner with respect to taking of the amount but the fact is that both the accused Hem Singh and Champa Lal had gone to village Janura for collecting the electricity dues and when the party made the payment, both these persons, viz., Hem Singh and Champa Lal were present there. The amount was collected by Champa Lal Peon in the presence of Hem Singh. Both

were on duty and the amount was taken by Champa Lal in his presence and later on it was the accused Hem Singh, who prepared the receipts. Whatever amount was collected by Champa Lal, was in the knowledge of Hem Singh and Hem Singh issued receipts in the lesser amount. In this view of the matter, it cannot be said that there is no evidence on record for framing the charges against the petitioner under Sections 420, 468 and 471 read with Section 109 IPC, particularly when the amount was collected on the basis of the bills showing higher amount and after destroying the bills, the fresh bills were prepared and lesser amount was deposited.

5. At the time of framing the charges, the Court is only required to evaluate the materials and documents on record with a view to find-out if the facts emerging therefrom, taken at their face value, disclose the existence of all the ingredients constituting the offence. Even strong suspicion at this stage is sufficient to frame the charges against the accused. From the materials available on record, I am of the opinion that prima facie the materials for framing the charges exist in the present case and the rest is the matter of trial. It is not expected that this Court, while exercising its powers under Section 482 Cr.P.C. should proceed to discuss all such evidence available on record to see whether the evidence constitutes the offence, because if that will be done then it may prejudice the case of the petitioner himself and that will amount to discharging the functions of the trial Court itself. By evaluating the evidence on record, I am simply to satisfy myself whether prima facie there is some material existing on record which justify the framing of the charges against the petitioners. I am of the view that there are sufficient materials on record, on the basis of which the charges under Sections 420, 468 and 471 read with Section 109 IPC can be framed against the accused-petitioner. In this view of the matter, the learned Magistrate has not committed any illegality in framing the charges against the petitioner under the aforesaid Sections.

6. Consequently, this miscellaneous petition, filed by the accused-petitioner, has got no force and is hereby dismissed.