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Jagdish Vs. State of Rajasthan

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Court : Rajasthan

Decided On : Jul-20-1994

Reported in : 1994(3)WLC550; 1994(2)WLN92

Judge : Rajendra Saxena, J.

Appeal No. : S.B. Criminal Misc. Petition No. 431 of 1994

Appellant : Jagdish

Respondent : State of Rajasthan

Disposition : Petition dismissed

Judgement :

Rajendra Saxena, J.

1. Mr. K.L. Thakur is directed to accept the notice of this Criminal Misc. Petition, which he has accepted and a copy of the memo of the petition has been supplied to him. On the joint request, this case is being finally disposed of.

2. It appears that on a criminal complaint filed by complainant Kishan Lal by caste Chamar against the petitioner for the offences Under Sections 327, 323, 341, 504, 506 I.P.C. and Under Section 3 of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989, the learned Chief Judicial Magistrate, Nimbahera after recording the evidence Under Section 200 & 202 Cr.P.C. by his

order dated 27.5.94 took cognizance against accused petitioner Jagdish for the offence Under Section 330 I.P.C. and Under Section 3(i)(x) of the Scheduled caste & Scheduled Tribes (Prevention of Atrocities) Act, 1989 and ordered for issuance of non-bailable warrant for the arrest of the petitioner. Aggrieved petition Under Section 482 Cr.P.C.

3. I have heard the learned Counsel for the petitioner and the learned Public Prosecutor and perused the relevant record. If the Magistrate after perusing the contents of the criminal complaint and the evidence recorded by him Under Sections 200 & 202 Cr.P.C. is satisfied that prima facie case to proceed against the accused is made out then he is empowered to take cognizance. 'Prima Facie' means the evidence which is sufficient to establish a fact or to raise a presumption of the truth of the facts unless rebutted or controverted. Therefore, if the Magistrate is satisfied that there is prima facie evidence disclosing certain offence against the accused then Under Section 190 Cr.P.C. he can take cognizance and ensure his attendance by issuing summons, bailable or non-bailable warrant as the facts & circumstances of the case so warrant.

4. If the accused, against whom the cognizance has been taken, has any substantial valid or legal defence available to him, then he should agitate his grievance and raise objections before the Magistrate at the time of framing of charge and the learned Magistrate is expected to consider all those objections. If after considering the objections raised by the accused the Magistrate is of the opinion the no case is made out constituting any offence then at that stage, he can discharge the accused. This Court has consistently held that the order passed by the Magistrate taking cognizance of an offence should not be lightly interfered in a routine manner in exercise of its inherent powers Under Section 482 Cr.P.C. in the instant case a bare perusal of the criminal complaint discloses a prima facie case against the accused. Therefore, the impugned order does not amount to abuse of the process of the court and does not warrant any interference.

6. The up shot of the above discussion is that this petition is meritless and the same is here by dismissed. However, keeping in view the contents of the criminal complaint, the learned Magistrate is directed to issue bailable warrant against the

petitioner instead of issuing the non-bailable warrant to procure his presence in the court.

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