

Kerta Mal Vs. State of Rajasthan

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Court : Rajasthan

Decided On : Mar-13-1996

Reported in : 1996(1)WLN148

Judge : N.L. Tibrewal, J.

Appeal No. : S.B. Criminal Misc. Petition No. 1249 of 1990

Appellant : Kerta Mal

Respondent : State of Rajasthan

Judgement :

N.L. Tibrewal, J.

1. In this petition Under Section 482 Cr.P.C. the petitioner is challenging the order dated November 9, 1990 passed by learned Additional Sessions Judge Neemkathana (Sikar) in Criminal Revision No. 46/89 where by the order dated 2.11.1989 of Sub-Divisional Magistrate in a proceeding under Section 145/146 Cr. P.C. was maintained.

2. On behalf of non-petitioner Nos. 2 to 4 a preliminary objection has been raised that the petitioner has already exercised a right of revision which was available to him and in view of the bar under Sub-Section (3) of Section 397 and 399 of Code of Criminal Procedure a second revision is not maintainable and in this petition

Under Section 482 Cr.P.C. The petitioner is infact challenging the order of revisional Court which is not permissible. In support of his argument reliance has been placed on Deepti alias Arati Ravi v. Akhil Rai and Ors. : (1995)5SCC751 and Hukami Chand and Anr. v. State of Rajasthan S.B. Cr. Misc. Peti. No. 1022/95 RHC.

3. On behalf of the petitioner, it is contended that in the civil suit an injunction order has been passed and the said order has to be obeyed by a criminal Court in a proceeding Under Section 145 Cr.P.C. It appeals from the order of the Sub-Divisional Magistrate that no such argument has been made that any injunction has been issued by any Court in a civil suit with regard to same subject matter. In view of the fact that the petitioner has already exercised a right of revision. I do not find any good ground to make any interference in exercise of power Under Section 482 Cr.P.C. However, it shall be open to the petitioner to raise an objection before the trial Magistrate that an injunction order has been passed in civil suit in regard to the same subject matter and if any such question is raised, the same shall be heard and disposed of in accordance with law.

4. The petition stands disposed of_ as indicated above. A copy of this order be sent to the concerned Sub-Divisional Magistrate.