

Chaln Singh Vs. State

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Court : Jammu and Kashmir

Decided On : Feb-27-2006

Reported in : 2006(2)JKJ268

Judge : J.P. Singh, J.

Acts : Ranbir Penal Code (IPC) - Sections 21 and 471; ;Code of Criminal Procedure (CrPC) , 1989

Appeal No. : Cr. Rev. No. 58/2003

Appellant : Chaln Singh

Respondent : State

Advocate for Def. : A.S. Dogra, Dy. Adv. General

Advocate for Pet/Ap. : Surinder Kour, Adv.

Disposition : Petition dismissed

Judgement :

J.P. Singh, J.

1. Mrs. Surinder Kour, learned Counsel for the petitioner, seeks quashing of proceedings in case titled State v. Chain Singh, pending disposal before learned Additional Sessions Judge, Doda, under Section 471 R.P.C on a short submission

that the registration of F.I.R No. 13/2000 and its investigation by Crime Branch is illegal because Crime Branch of the State Police can register and investigate only those cases which are covered by Government Notification dated June 3, 1999.

2. Mrs. Kour places reliance on a Division Bench judgment of this Court dated August 28, 2002 in Cr. Revision Nos. 78/1998 & 10/1999.

3. Sh. A. S. Dogra, learned Dy. Advocate General for the respondent, submits in reply that the notification dated June 3, 1999, covers the case in hand. FIR and investigation cannot be quashed, argues the counsel.

4. I have considered the submissions of the learned Counsel for the parties.

Petitioner Chain Singh is a teacher; hence a Public Servant under Section 21 of the Ranbir Penal Code.

Item 23 of Annexure to SRO 202 dated 3.6.1999 reads as under:

23. Cognizable offences committed by or relating to public servants.

This annexure contains list of those cases which may be registered and investigated by the Crime Branch.

5. Submission of Mrs. Surinder Kour, thus, does not merit consideration because the case of the petitioner is covered by Item No. 23 of Annexure to SRO 202 of 03.06.1999, which was in force when the FIR was registered by the Crime Branch against the petitioner.

6. Mrs. Kour cannot, therefore, derive any support from the judgment of the Division Bench.

7. This apart, any defect or illegality in investigation, however serious, has no direct bearing on the competence or procedure relating to cognizance or trial.

8. Although a police report becomes the basis for taking cognizance by a Magistrate or a Special Judge, as the case may be, yet it cannot be countenanced that a valid and legal police report is the foundation of the jurisdiction of the Court

to take cognizance.

9. Cognizance of an offence, in view of the scheme of the Code of Criminal Procedure, is not dependant on the legality or otherwise of the FIR or investigation, thereon.

10. Irregularity or for that matter even illegality in Registration of FIR or/and investigation, would not vitiate the cognizance, trial or conviction unless prejudice to the accused, or miscarriage of Justice is substantiated.

The view which I have taken in this case is supported by 'H.N. Rishbud and Anr. v. State of Delhi' reported as : 1955 CriLJ526 .

11. A learned Single Judge of this Court has refused to entertain the challenge to the charge, on facts, by holding that the order impugned is an interlocutory order, hence not amenable to the Criminal Revisional Jurisdiction of the Court.

12. The point of jurisdiction, having failed, there is, thus, no merit in this petition, which is, according, dismissed with direction to the trial Court to expedite the trial and conclude it within an year. In case the trial is not so concluded, the trial Court shall inform the Registry the reasons for such delay.

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