

Tarendra Singh Vs. State of Rajasthan

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Court : Rajasthan

Decided On : Jul-21-2011

Judge : Sandeep Mehta, J.

Acts : Indian Penal Code (IPC) - Sections 420, 409; Code Of Criminal Procedure (CRPC) - Section 482, 173

Appeal No. : S.B. Cr. Misc. Petition No.1047 of 2004; S.B. Cr. Misc. Petition No.548 of 2006; S.B. Cr. Misc. Petition No.549 of 2006; S.B. Cr. Misc. Petition No.550 of 2006 And S.B. Cr. Misc. Petition No.551 of 2006

Appellant : Tarendra Singh

Respondent : State of Rajasthan

Advocate for Def. : Mr. Abdul Rahil Khan; Mr. N.A. Naqvi, Advs

Advocate for Pet/Ap. : Mr. S.S. Hora, Adv

Judgement :

1. Since all these petitions are related to the same incident, they are being decided by this common order.
2. Mr. S.S. Hora, counsel for the petitioner, after arguing some time has submitted before this Court that in almost an identical FIR, being FIR No.1/1997, registered at Police Station Bhanwargarh Distt. Baran, the investigation resulted into a F.R.

whereupon cognizance was taken against the transporter for offences under Sections 420 and 409 IPC. The order taking cognizance was challenged by accused, Jagdish Prasad Bansal (the transporter) before this Court by way of a criminal misc. petition under Section 482 Cr.P.C., being S.B. Cr. Misc. Petition No.305/2005.

3. As per Mr. Hora, the factual aspects of the present cases are exactly identical to the above referred case. He further submits that the above referred case also relates to the delivery of food grain under the Poshahar Scheme and the contract of the said case is also identical to the present cases. As per Mr. Hora, when the order taking cognizance has been quashed by this Court making an observation that the contractor was not liable to be prosecuted under the contract, then the prosecution of the petitioner in the present FIRs is absolutely unwarranted.

4. I have heard counsel for the petitioner on the question of legality of the FIRs.

5. Suffice it to say that the challenge to the FIRs which has been raised before the Court involves a question of appreciation and marshaling of facts, which could better be possible during the stage of the investigation or in the event of the report under Section 173 Cr.P.C. being filed, at the stage of taking cognizance. It is however, prayed to this Court that the petitioner should be given liberty to approach the Director General, Anti Corruption Bureau, with a representation. The petitioner proposes to rely on the judgment of this Court in the case of Jagdish Prasad Bansal (Supra) to show to the Director General, Anti Corruption Bureau that the result of FIRs should be filed in his favour because in above referred identical case, the Hon'ble Rajasthan High Court has already quashed the prosecution of the transporter.

6. The prayer appears to be just and reasonable. The petitioner is permitted to make a representation to the Director General, Anti Corruption Bureau who shall either himself or through a competent Investigating Officer deal with the same looking to the submission that the incidents are of the year 1998 and that in almost an identical case, this Court has held that the transporter could not be held responsible under the contract.

7. It is expected that if such a representation is made to the Director General, Anti Corruption Bureau the same shall be dealt with in accordance with law and if despite that the report under Section 173 Cr.P.C. is filed, it is expected from the concerned court while dealing with the said report the facts of the case in Jagdish Prasad Bansal (Supra) shall be kept in mind. However, it is made clear that the arguments of the petitioner are subject to the condition that the case of Jagdish Prasad Bansal (Supra) should be demonstrated to be exactly identical to the petitioner's case.

8. With the aforesaid liberty, the petitions are, hereby, disposed of. The stay petition also stands disposed of.

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