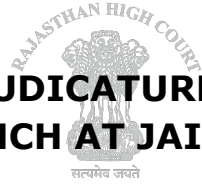




**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



S.B. Criminal Miscellaneous (Petition) No.4822/2021

Kamlesh Kumar Suman S/o Shri Laxmi Chand Suman, R/o Tejaji
Ka Mohalla, Nareda, Tehsil And District Baran.

----Petitioner

Versus

1. State Of Rajasthan, Through The Learned Public Prosecutor.
2. Bhupendra Suman S/o Ramlal Mali, R/o Ranibarod, Kishanganj, District Baran.

----Respondents

For Petitioner(s) : Mr. Amit Jindal with
Mrs. Deepti Jindal and
Mrs. Reena Goyal

For State : Mr. Jitendra Singh Rathore, PP
For Respondent No.2 : Mr. Jagdish Nagar

JUSTICE ANOOP KUMAR DHAND

Order

23/04/2026

Reportable

1. By way of filing the instant criminal misc. petition, a challenge has been led to the impugned FIR No.127/2021 registered with the Police Station Kishanganj, District Baran for the offences punishable under Sections 450, 506 and 376(1) IPC.
2. Learned counsel for the petitioner submits that in the instant impugned FIR, the date of commission of the alleged offence has been mentioned as 3rd May, 2021, but no FIR/complaint was lodged on the said day, either by the complainant-informant or by the prosecutrix. Counsel submits that after the aforesaid alleged incident, one more incident occurred on 05.05.2021, for which an



FIR No.80/2021 was registered against the petitioner and other family members for the offences punishable under Sections 341, 323 and 307 read with Section 34 IPC. Counsel submits that there is no such allegation, levelled against the petitioner in the said FIR, that he committed rape upon the wife of the complainant i.e. "D". Counsel submits that when the matter was investigated by the Investigating Officer with regard to the FIR No.80/2021, the involvement of the petitioner was not found to be proved by the Investigating Officer, hence, on 07.07.2021, a representation was submitted by the complainant-respondent No.2 to the higher Police officials to verify the previous investigation of the case and send report after conducting a fair and impartial investigation. Counsel submits that there is a property dispute pending between the family members wherein the petitioner is denying to leave his share in favour of the complainant. Counsel submits that with the aforesaid two ulterior motives, the instant FIR has been lodged with false and fabricated allegations against the petitioner that he committed rape upon wife of the complainant, who is a major lady. Counsel submits that the case of the petitioner falls within the parameters fixed by the Hon'ble Apex Court in the case of **State of Haryana and Others vs. Bhajan Lal and Others** reported in **1992 Supp (1) SCC 335**, wherein the Apex Court has held that if criminal proceedings are manifestly attended with mala fide and maliciously instituted with an ulterior motive for wreaking vengeance, such proceedings are liable to be quashed.

3. *Per contra*, learned Public Prosecutor as well as counsel appearing on behalf of the complainant opposed the arguments raised by counsel for the petitioner and submitted that under the





fear and out of apprehension, the impugned FIR could not be registered immediately after commission of the alleged offence, hence, under these circumstances, interference of this Court is not warranted.

4. Heard and considered the submissions made at the Bar and perused the material available on the record.

5. Perusal of the FIR No.80/2021 reveals that an incident occurred with the complainant on 05.05.2021, wherein the allegations were levelled against the wife and son of the petitioner that they caused the alleged incident and the petitioner abetted them for doing so. When the matter was investigated by the concerned Police Officer, involvement of the petitioner was not found to be proved and the complainant submitted a representation on 07.07.2021 to verify the previous investigation carried out in the case and for handing over the investigation to the higher Police Officials for a fresh and impartial investigation.

6. It appears that at this stage, the complainant became prudent and the allegations of rape have been levelled against the petitioner for the alleged incident dated 03.05.2021.

7. Had such incident occurred on 03.05.2021, certainly the impugned FIR could have been registered then and there only. The description of the incident dated 03.05.2021 is mentioned in the FIR No.80/2021 which was registered on 05.05.2021, but no such FIR was registered against the petitioner, either by the complainant or by the prosecutrix whereby it would be indicated that the petitioner has committed offence of sexual assault upon her.





8. In this connection, it is relevant to refer to the judgment passed by the Hon'ble Apex Court in **Batlanki Keshav (Kesava) Kumar Anurag v. State of Telangana and another** while deciding **Criminal Appeal No.2879/2025** on 29.05.2025, wherein the facts of the case are that the appellant met the respondent through a matrimonial website while residing abroad, and they mutually agreed to marry. Upon returning to India, appellant allegedly engaged in sexual relations with the respondent, who later accused him of obtaining consent deceitfully under a false promise of marriage. Multiple FIRs were lodged initially under Sections 417 and 420 IPC, followed by a second FIR under Section 376(2)(n) IPC and Section 3(2)(v) of the SC/ST (Prevention of Atrocities) Act. The appellant challenged the second FIR before the High Court of Kerala, seeking quashing thereof under Section 482 Cr.P.C., which was later on declined, leading to filing of the appeal before the Hon'ble Apex Court. The question that arose for consideration was whether continuation of prosecution based on inherently contradictory and belated allegations of sexual exploitation, under a false promise of marriage constituted gross abuse of legal process.

9. After appreciating the facts and circumstances of the case, while allowing the aforesaid appeal, the Hon'ble Apex Court held that upon consideration of the allegations as set out in the FIR and the charge-sheet placed on record by the accused-appellant, there was no *prima facie* material whatsoever available on record to substantiate the allegations of cheating or sexual intercourse under a false promise of marriage against the accused appellant.





The Hon'ble Apex Court observed that the allegations levelled in the FIR No.751/2021 dated 29.06.2021, and the impugned FIR challenged before the Apex Court bearing No.103/2022 were at great variance and the inherent contradictions in the two reports over the same subject matter could not be reconciled. Under such circumstances, the Hon'ble Apex Court was of the firm opinion that allowing prosecution of the accused appellant to continue in the proceedings arising out of the impugned FIR No.103/2022 would be nothing short of a travesty of justice in addition to being a gross abuse of the process of Court. The Hon'ble Apex Court held that the impugned FIR No. 103/2022 is nothing but a bundle of lies full of fabricated and malicious unsubstantiated allegations levelled by the complainant. Accordingly to the Hon'ble Apex Court the facts on record clearly established the vindictive and manipulative tendencies of the complainant and these aspects were found to have a great bearing on the controversy.

10. The Hon'ble Apex Court further held that non-disclosure of the allegations in the earlier FIR by the *de facto* complainant is fatal, and disclosing the same after several months in a subsequent FIR, is nothing but a sheer exaggeration and the same must be discarded. It has been held in para 29, which reads as under:

"29. It is also relevant to mention here that in FIR No. 751 of 2021, the de-facto complainant has not even made a whisper about the accused appellant dumping her on the ground of her caste. Thus, apparently this allegation which has been set out in the subsequent FIR No. 103 of 2022 lodged almost





after seven months is nothing but a sheer exaggeration which must be discarded.

11. Going by the ratio of the above decision, the Hon'ble Apex Court considered non-disclosure of the occurrence in the first FIR No.75/2021 and disclosure of the same in the second FIR No. 103/2021 as fatal to the case of the *de facto* complainant therein being contradictory.

12. Following the ratio considered in the aforesaid, indisputably non-disclosure of a serious offence within a reasonable time or at the relevant time when an earlier crime was registered against the same accused at the instance of the same *de facto* complainant, would show falsity of the allegations, making the procedure as an abuse of law.

13. Having found that the allegations are not trustworthy for the reasons already extracted and it could not be held that *prima facie* offences alleged by the prosecution is established, warranting any trial. On the contrary, the entire proceedings are abuse of the process of the Court.

14. The instant impugned FIR has been lodged by the complainant after a delay of more than two and half month i.e. on 26.07.2021 for the alleged incident which had occurred on 03.05.2021 and no reasons have been assigned for registration of the impugned FIR at such a belated stage.

15. Looking to the fact, that a property dispute is present between the family members and even at the final stage, no charge-sheet has been submitted against the petitioner for the offence punishable under Section 376 IPC in FIR No.80/2021, but





the same has been submitted against the wife and son of the petitioner before the concerned Court, hence, the instant case falls within the parameters, as defined by the Hon'ble Apex Court in the case of **Bhajan Lal** (supra), which read as under:



“(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code;

(4) where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(5) where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(g) where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”



16. The case of the petitioner falls within the parameters/principles, as laid down by the Hon'ble Apex Court, that the instant criminal proceedings have been initiated against the petitioner with mala fide intention and maliciously with an ulterior motive.

17. Having considered the entirety of the facts and circumstances available on the record, this Court is of the opinion that the impugned FIR No.127/2021 is nothing but a bundle of lies full of fabricated and malicious allegations and under the changed circumstances, where the petitioner was not found guilty in the first FIR No.80/2021 by the Investigating Officer, it would be absurd to allow the prosecution of the petitioner to continue by considering the aforesaid. These facts on record clearly establish the vindictive and manipulative tendency of the complainant and these aspects have a great bearing on the controversy.

18. Hence, under such circumstances of the case, the instant criminal misc. petition deserves to be allowed and the same is hereby allowed. The impugned FIR, registered at the Police Station Kishanganj, District Baran, for the offences punishable under Sections 450, 506 and 376(1) IPC stands quashed and set-aside. As a result thereof, the entire proceedings arising out of the same also stand quashed.

19. The stay application and all pending applications, if any, stand disposed of.

(ANOOP KUMAR DHAND),J

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