



IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.3233 OF 2023
(Arising out of S.L.P.(CrI.) No. 8027 of 2023)

AMBALAL PARIHAR ... APPELLANT(S)

VS.

STATE OF RAJASTHAN & ORS. ... RESPONDENT(S)

J U D G M E N T

ABHAY S.OKA, J.

Leave granted.

2. Heard the learned counsel appearing for the parties.

3. This is a shocking case of gross abuse of process of law by the second to fourth respondents. At the instance of the appellant, six First Information Reports were registered against the second to fourth respondents. There were two other First Information Reports registered against the same respondents by some other first informants. Two Criminal Miscellaneous Petitions were filed by the second to fourth respondents for quashing the First Information Reports filed at the instance of the other first informants.

4. Our attention is invited to the orders passed on the two petitions under Section 482 of the Code of Criminal Procedure, 1973 (for short "CrPC") filed by the second to fourth respondents. The petitions came up before a learned Single Judge of the Rajasthan High Court in April, 2023 in which no interim relief was granted.

5. Thereafter, the second to fourth respondents took a very extra ordinary step. On 5th May, 2023 a Writ Petition was filed on the civil side by the second and fourth respondents in which a prayer was made for issuing a writ of mandamus for clubbing the eight First Information Reports and consolidating them into one. The impugned order has been passed in the said Civil Writ Petition on 8th May, 2023. The learned Single Judge of the High Court directed that no coercive action shall be taken against the second to fourth respondents in connection with all eight First Information Reports.

6. The appellant has made a very serious allegation by relying upon the then prevailing roster notified by the Chief Justice of the Rajasthan High Court. The allegation is that as the learned Single Judge taking up assignment of the criminal matters dealing with Section 482 CrPC did not grant interim relief to the second to

fourth respondents in two cases, this method of filing a Civil Writ Petition was invented in which a prayer was made for consolidation of eight First Information Reports. The allegation is that this was done to avoid the roster Judge who had not granted interim relief. Not only that this course was adopted, the second to fourth respondents in the Civil Writ Petition prayed for interim relief directing that no coercive action shall be taken against the second to fourth respondents in relation to all eight First Information Reports. The complainants were not impleaded in the Civil Writ Petitions. Interestingly, both in civil and criminal cases, the same advocate represented the second to fourth respondents.

7. This is a classic case of forum hunting by the second to fourth respondents. It transpires that notwithstanding the aforesaid relief granted on 8th May, 2023 in the Civil Writ Petition, in the petitions under Section 482 of CrPC for quashing, on 1st June, 2023 the second to fourth respondents persuaded the concerned Bench to grant relief of not taking coercive action against them.

8. Thus, this is a case of gross abuse of process of law. We wonder how a Civil Writ Petition for clubbing First Information Reports could be entertained. In the

roster notified by the Chief Justice, there is a separate roster for Criminal Writ Petitions. If the Courts allow such sharp practices, the roster notified by the Chief Justice will have no meaning. The Judges have to follow discipline and ought not to take up any case unless it is specifically assigned by the Chief Justice. A Judge can take up a case provided either the cases of that category have been assigned to him as per the notified roster or the particular case is specifically assigned by the Chief Justice. Taking up a case not specifically assigned by the Chief Justice is an act of gross impropriety. Though a Civil Writ Petition was filed, the learned Judge ought to have converted into a Criminal Writ Petition which could have been placed only before the roster Judge taking up Criminal Writ Petitions.

9. We are sure that this conduct of the second to fourth respondents will be considered by the concerned Court taking up petitions under Section 482 CrPC for quashing the First Information Reports.

10. This is a fit case where the second to fourth respondents must be saddled with costs. We quantify the costs amount at Rs.50,000/- (Rupees fifty thousand).

11. Hence, we allow the appeal by passing the following order:

(a) We hold that action of filing SB Civil Writ Petition No.6277 of 2023 by the second to fourth respondents was nothing but a gross abuse of process of law and it was a classic case of forum hunting;

(b) Accordingly, we dismiss SB Civil Writ Petition No.6277 of 2023. Therefore, the impugned order does not survive;

(c) We direct the second to fourth respondents to pay costs quantified at Rs.50,000/- (Rupees fifty thousand) to the Rajasthan State Legal Services Authority within a period of one month from today and to produce the receipt before this Court within a period of six weeks from today;

(d) As narrated earlier, the conduct of the second to fourth respondents shall be brought to the notice of the concerned Court which is hearing petitions under Section 482 CrPC filed by the second to fourth respondents; and

(e) We direct the Registrar (Judicial) of the Rajasthan High Court to place a copy of this order in all eight petitions under Section 482 of CrPC filed by the second to fourth respondents for quashing First Information Reports.

12. The appeal is allowed on the above terms.

.....J.
(ABHAY S.OKA)

.....J.
(PANKAJ MITHAL)

NEW DELHI;
October 16, 2023.