



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Criminal Misc(Pet.) No. 2904/2024

Jagannath Singh S/o Ugam Singh, Aged About 61 Years, R/o
Bhojraj Ki Dhani, Ramgarh, Police Station Ramgarh, Dist.
Jaisalmer.

----Petitioner

Versus

1. State Of Rajasthan, Through Pp
2. Babu Ram Chouhan S/o Hardan Ram Chouhan, R/o
Basta Pada, Ramgarh, Dist. Jaisalmer.

----Respondents

For Petitioner(s) : Mr. Naresh Khatri

For Respondent(s) : Mr. Sumer Singh, PP

HON'BLE MR. JUSTICE ARUN MONGA

Order (Oral)

29/07/2024

1. The petitioner, a retired Lecturer, is before this Court seeking the quashing of an FIR No. 0004/2024, dated 15.04.2024, registered at P.S. Tannot, Jaisalmer, for the alleged offences under Sections 193 and 420 IPC.

2. Briefly stated, the relevant facts, shorn of unnecessary details, as stated in the petition, that led to the registration of the FIR are as follows :

2.1 Both petitioner as well as respondent No.2 (a school teacher) are / were government servants in education department of Rajasthan and seem to have got certain pre-existing rivalry with each other leading to registration of the FIR in question. The respondent No.2 is / was junior to the petitioner and is still in service, whereas, the petitioner has already retired. Respondent No.2 submitted a complaint before the Superintendent of Police,



Jaisalmer, alleging that, pursuant to a letter dated 13.03.2024 issued by the Education Department asking the petitioner to confirm if any proceedings were pending against him, the petitioner filed an affidavit stating that no proceedings were pending.

2.2 However, the petitioner at that time was facing trial in connection with FIR No. 282/2014, wherein the trial court had taken cognizance of the offences under Sections 193, 420, 467, 468, and 471 IPC vide an order dated 22.09.2021.

2.3 A police complaint was filed by the respondent No.2 before Superintendent of Police, Jaisalmer alleging that the petitioner gave a false affidavit in his department. Therefore, petitioner should not have been issued a Pension Payment Order ('PPO') upon his superannuation. The said complaint was forwarded to the SHO, P.S. Tannot, Distt. Jaisalmer, where the FIR in question was registered.

3. I have heard learned counsel for the petitioner and the learned Public Prosecutor and perused case file.

4. The learned counsel for the petitioner argues, on lines of the grounds pleaded in the petition, that the complainant had a personal grudge against the petitioner and had been trying to implicate him in false cases even earlier. After the petitioner's retirement, he is being harassed, and the current FIR is being used as a tool for this purpose.

5. On the other hand, the learned Public Prosecutor argues that the Court's interference is not warranted, as the petitioner was required to disclose the pendency of the case against him at the



time of retirement. Therefore, he has committed the offence of cheating under Section 420 IPC. The Public Prosecutor further submitted that the investigation is still ongoing.

6. Since it is for the prosecution to defend the FIR in question, once the matter was reported by the complainant and his complaint was converted into the FIR, in the premise having heard the learned Public Prosecutor, I do not deem it appropriate in the present case to issue any notice to the complainant-respondent No.2 herein. I shall, therefore, now proceed to discuss the merits of the FIR in the succeeding part of the instant order.

7. First and foremost, it is imperative to consider the background that led to the registration of the FIR in question. Back in 2013, the complainant, who identified himself as an RTI activist, made a complaint to the District Collector of Jaisalmer against the petitioner.

7.1 The complainant alleged that the petitioner had falsely claimed in an appeal before the Revenue Appellate Authority, Jaisalmer, in Appeal No. 142/2007, that he was not a government employee, despite being in a government service since 20.09.1989. Based on the complainant's allegations, the Revenue Appellate Authority, Jaisalmer, lodged a complaint with the SHO of P.S. Kotwali, District Jaisalmer, leading to the registration of FIR No. 282/2014. Initially, the investigation resulted in a negative final report.

7.2 However, on a protest petition filed by the complainant, the matter was re-investigated, and the petitioner was thus charge-sheeted under Sections 193, 467, 468, and 471 of the IPC. The trial court took cognizance of the charges. Upon revision by the



petitioner, the Additional Sessions Judge, Jaisalmer, in Criminal Revision No. 29/2021, by order dated 27.08.2022, set aside the order of cognizance and remanded the case back to the trial court for reconsideration.

7.3 Subsequently, the petitioner retired from the Education Department on 30.06.2023. Prior thereto, he submitted the alleged affidavit on 06.02.2023 in response to an inquiry made by the Chief Block Education Officer. This affidavit was forwarded along with a letter dated 06.02.2023 by the school principal to the relevant authority, confirming that no departmental inquiry was pending against the petitioner. The affidavit of petitioner also stated that no departmental inquiry was pending.

7.4 It is this aforesaid affidavit of the petitioner, qua which, the complainant, in my view, misleadingly approached the police nearly a year later after obtaining affidavit and lodged the present FIR. Reasons are not far to seek. Let us see how.

8. A plain reading of the FIR reveals much about the situation, which, in fact, needs no further elaboration. Be that as it may, given the nature of allegations qua the commission of purported offences herein, only a person who is a victim is entitled to file a report for registration of the FIR, if at all. In this case, not only the complainant is not even a victim, but otherwise also, concededly, neither has he suffered any inducement leading to cheating nor incurred any wrongful loss due to the petitioner's actions. Ingredients of section 420 of the IPC, therefore, are completely lacking. It is apparent that the complainant, motivated by his personal grudges against the petitioner, is hounding him.



9. After reviewing the contents of the FIR, I am of the opinion that the allegations are self-explanatory. Ex-facie, they do not make out the ingredients of the offences alleged against the petitioner. Furthermore, the allegations have not been levelled by the department but a junior colleague i.e. the complainant is reporting this matter to the police. I fail to see how the complainant has the locus in the matter, especially when the pendency of the so-called earlier criminal case against the petitioner by the complainant has no connection with the duties discharged as a Lecturer by the petitioner.

10. It transpires that due to registration of the FIR in question, the Education Department, from where the petitioner retired, has withheld his retirement benefits awaiting the outcome of the criminal proceedings arising therefrom.

11. It is rather perplexing that such an FIR has been registered post-retirement, based on an allegation that in no way affects the petitioner's duties or service rendered by him during his long career so as to seek stoppage of his pension at the instance of the complainant.

12. Moreover, the petitioner's department did not ever take any steps to initiate criminal proceedings against the petitioner if he had indeed committed any offence of misrepresentation. Thus, clearly there are no ingredients of section 191/193 of the IPC so as to allege commission of any such offence by the petitioner. As far as complainant is concerned, he has got no *locus standi* to file any complaint.

13. It thus appears that, at the behest of a third party, having absolutely no direct involvement in the matter and, potentially



harboring a grudge against the petitioner, a motivated FIR was registered as an act of vendetta to settle a personal score.

14. I may once again hasten to reiterate, that on a specific court query put to the learned PP, he concurs that the petitioner's department, which had the primary responsibility to act if any misrepresentation had occurred, did not initiate any criminal proceedings. In the premise, I am of the view that the said conscious inaction clearly indicates that the department itself did not consider the affidavit submitted by petitioner as a serious enough issue to warrant any interference. The department's outlook / stand, therefore, fatally undermines the legality and credibility of the FIR under challenge herein.

15. Consequently, I find that the impugned constitutes a complete abuse of process and deserves to be quashed. It is so ordered. Impugned FIR and all consequential proceedings pursuant thereto, thus stand quashed.

16. The petition stands allowed accordingly.

(ARUN MONGA),J

33-Rmathur/-

Whether fit for reporting : Yes / No