



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

S.B. Criminal Misc(Pet.) No. 4436/2024

1. Hemant Singh S/o Prabhu Singh Rajawat, Aged About 40 Years, R/o Dolat Colony Kelwa, Dist. Rajsamand (Raj.)
2. Bherulal S/o Lal Ji Gurjar, Aged About 35 Years, R/o Dodyiawas Gomti, Chaarbhuja, Dist. Rajsamand (Raj.)
3. Shekhar Paliwal S/o Tolaram Paliwal, Aged About 28 Years, R/o Joshiyo Ki Madri, Dist. Nathdwara (Raj.)
4. Pramod Joshi S/o Mohan Lal, Aged About 30 Years, R/o Joshiyo Ki Madri, Dist. Nathdwara (Raj.)
5. Laxman Singh S/o Sohan Singh Rathore, Aged About 40 Years, R/o Bhawani Nagar Jk, Carkil, Kankroli, Dist. Rajsamand (Raj.)

----Petitioners

Versus

1. State Of Rajasthan, Through Pp
2. Jagdish Chander Teli S/o Kishan Lal Teli, R/o Devpura, Kelwa, Dist. Rajsamand (Raj.)

----Respondents

For Petitioner(s) : Mr. B.S. Sandhu.

For Respondent(s) : Mr. Vikram Sharma, PP

HON'BLE MR. JUSTICE ARUN MONGA

Order

23/07/2024

1. Quashing of an FIR No.101/2024 dated 07.06.2024 for alleged offences under Sections 500, 120-B IPC and Sections 66 & 66(C) of the Information Technology Act, 2000, at Police Station Kelwa, District Rajsamand is sought herein.
2. Facts, as pleaded, leading to filing of the instant petition are that Nandalal Teli left his ULTRA-24 mobile phone unattended at a



shop without a screen lock. After realizing the phone was missing 15-20 minutes later, Nandalal returned to the shop, but it was closed. He then went to the house of Accused No.1 to inquire about the phone. Accused No.1 stated that he would check the CCTV footage and asked Nandalal to return the next day. The following day, Accused No.1 informed Nandalal over the phone that the device had been taken by Bherulal (Accused No.2). Bherulal claimed that the phone had been left in his car, which had been taken to the mines by his brother, but assured it would be returned by the evening. On May 19, 2024, Bherulal left the phone at Chauhan Filling Station, where Vikas informed Nandalal, and his son Subhash retrieved it. The phone was off and contained a Jio SIM card. On May 28, 2024, Accused No.4 sent defamatory WhatsApp messages and videos to Nandalal's phone, including false and harmful content. FIR was registered. Petitioners claim they have been falsely implicated. Hence the petition.

3. In the aforesaid backdrop, I have heard learned counsel for the petitioner and learned Public Prosecutor.

5. While learned counsel for the petitioners would empathically argue that the FIR in question ought to be quashed as the same is in complete misuse of the police powers only to put collateral pressure on the petitioners to not press the charges against the respondent No.2 qua the JCB, which has been illegally taken away from him.

5.1. He further contends that the allegations in the FIR are completely fictitious and concocted and merely a counter blast to an earlier FIR No.0097, dated 01.06.2024 registered against the complainant under Section 379 IPC.



6. Per contra, learned Public Prosecutor would argue that the investigation is at a very initial stage and the petitioners have nothing to be fearful of and in case, in course of investigation it unravels that no offences are having committed by the petitioners, a negative final report shall be filed in due course.

7. Having heard the rival contentions, at this preliminary stage, it would not appropriate for this Court to entertain a petition for quashing the FIR based merely on self serving affidavits.

8. Even otherwise, I am of the view that the petitioners should have first approached a superior officer under Section 36 of the Cr.P.C. The superior officer, after conducting initial inquiries, has the authority to either terminate the proceedings or direct the earlier Investigating Officer, who is already handling the matter based on the petitioners' complaint, to continue investigating the FIR in question. With the aforesaid liberty, the petition stands disposed of.

9. As regards the apprehension of the petitioners of being arrested, the same is completely unfounded, as the offences alleged against them are bailable. Needless to say, in case they are summoned by the Investigating Officer, they shall be admitted to bail on furnishing of bail bonds to the satisfaction of the Investigating Officer.

10. Pending application, if any, also stands disposed of.

(ARUN MONGA),J

26-Rmathur/-

Whether fit for reporting : Yes / No