

NON-REPORTABLE**IN THE SUPREME COURT OF INDIA****CRIMINAL APPELLATE JURISDICTION****CRIMINAL APPEAL NO.393 OF 2021****[@ SPECIAL LEAVE PETITION [CRL] NO. 3705 OF 2015]****RAM KISHAN****.....APPELLANT****VERSUS****STATE OF RAJASTHAN & ORS.****.....RESPONDENTS****J U D G M E N T**

Leave granted.

2. This appeal has been filed challenging the Order of the Rajasthan High Court whereby the First Information Report (for short 'FIR') No.217 of 2006 lodged by the appellant against the respondent no.3 under Sections 332 and 353 of the Indian Penal Code (for short 'IPC'), has been quashed in a petition under Section 482 of the Criminal Procedure Code (for short 'Cr.P.C.') filed by the respondents no. 2 and 3.

3. Briefly stated, the facts of this case are that the appellant, who is a Police Constable, along with a Sub Inspector of Police and another Constable, were checking the vehicles passing by on the road in the evening on 21.07.2006, when at about 09:15 pm, one motorcycle was stopped, and when the rider (Deepak Gupta) was asked about the papers of the vehicle, instead of showing the papers, on the pretext of talking over mobile phone, he fled away and returned after about 20 minutes along with two ladies in one Maruti Car, one of whom was the respondent no.3-Ms. Ratna Gupta and the other was respondent no.2-Ms. Usha Gupta. The said Ms. Ratna Gupta, who was herself an Inspector in Rajasthan Police, alighted from the car and uttered caste related abuses to the appellant, and asked that what power did the appellant have to stop the motorcycle despite her (Ratna Gupta's) name having been taken. She then caught hold of the collar of the appellant, slapped and beat him, and thereafter fled away from the place. An FIR No.217 of 2006 of the said incident was lodged by the appellant on 21.07.2006 at 09:45 pm.

4. Cross FIR No. 218 of 2006 was lodged on 22.07.2006 by Deepak Gupta alleging that he was stopped by the appellant in the late evening on 21.07.2006, and that the appellant asked for Rs.100/- (Rupees One Hundred) and when the same was not given, the appellant assaulted the said Deepak Gupta. It was also alleged that the appellant behaved indecently with the respondent no.2 Ms. Usha Gupta (who was also with him on motorcycle) and tore her clothes.

5. With regard to FIR No.218 of 2006, after a detailed investigation, a Final Report under Section 173 Cr.P.C. was filed by the Police on 30.12.2006, which matter is pending before the concerned Magistrate.

6. The earlier FIR No. 217 of 2006 was challenged by the respondents no. 2 and 3 before the Rajasthan High Court, which petition has been allowed and the said FIR has been quashed. Challenging the said Order dated 23.01.2015 of the High Court, this Special Leave Petition has been filed.

7. Shri Rishi Matoliya, learned Advocate has appeared on behalf of the appellant and Dr. Manish Singhvi, learned Senior Advocate has appeared for the State-respondent no.1. Respondents no.2 and 3 (Ms. Usha Gupta and Ms. Ratna Gupta) appeared in person. By an earlier Order dated 24.07.2018, this Court had recorded that the respondent no.3 (who appeared in person) was not in a position to make her submissions properly and therefore, Shri Vijay Hansaria, learned Senior Advocate was appointed as Amicus Curiae.

8. We have heard learned Counsel for the parties as well as Amicus Curiae and Respondents no.2 and 3, at length and have carefully perused the relevant documents.

9. From the record, as well as the submission made by the learned Counsel for the parties and also the Amicus Curiae, we are of the opinion that in the facts of the present case, the finding recorded by the High Court that the report (FIR no. 218) of the respondents no.2 and 3 (petitioners before the High Court) was not registered immediately, cannot be justified, primarily because the matter relating to FIR No.217 of 2006 was under investigation and it was not for the High Court to have substituted its own opinion in

this regard by holding that the FIR no. 217 of 2006 was filed as a counter blast, specially when it was registered a day earlier than FIR no. 218 of 2006 and the matter was admittedly still under investigation. In our considered opinion, quashing the FIR No.217 of 2006, solely on this ground is wholly unreasonable and cannot be justified in law. It is also noteworthy, that while deciding the matter, the High Court has not considered the Injury Report of the appellant-Ram Kishan dated 22.07.2006, which was submitted by the Medical Officer of the Medical and Health Department of the Government of Rajasthan, nor have the submissions advanced on behalf of the appellant (though recorded) been considered in the Order quashing the FIR no. 217 of 2006.

10. Considering the fact that the matter relating to FIR No. 217 of 2006 was under investigation and merely on the assumption that the FIR of Deepak Gupta (wrongly mentioned as that of the respondents no.2 and 3) was not registered immediately and also keeping in view the Final Report submitted in the FIR No.218 of 2006 was not taken into consideration by the Rajasthan High Court, we are of the opinion that the Rajasthan High Court has erred in quashing the FIR No.217 of 2006.

11. Accordingly, we set aside the Order dated 23.01.2015 passed by the Rajasthan High Court in SB Criminal Misc. Petition No.1144 of 2008 (Usha Gupta & anr vs State of Rajasthan & anr.) and direct that the police shall submit its report under section 173 Cr.P.C. after carrying out a complete and proper investigation relating to FIR No.217 of 2006. Since, the matter has been pending for about a decade and a half, we direct that the investigation be concluded as expeditiously as possible.

With the aforesaid observations, this appeal stands allowed.

.....CJI.
[S.A. BOBDE]

.....J.
[L. NAGESWARA RAO]

.....J.
[VINEET SARAN]

**NEW DELHI;
APRIL 09, 2021.**