

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

S.B. Criminal Miscellaneous (Petition) No. 3698/2020

Surendra Gurjar S/o Shri Ramkhiladi, R/o Village Khuntla, Teh.
Baswa, Distt. Dausa, Raj.

----Petitioner

Versus

1. State Of Rajasthan, Through PP
2. Sunita D/o Shri Rajesh Meena, R/o Chhokarwada, Ps
Sikandra, Dist, Dausa, Raj.

----Respondents

For Petitioner(s)	: Mr. Raj Kumar Sharma through VC
For Respondent(s)	: Mr. Prashant Sharma, PP

HON'BLE MR. JUSTICE SATISH KUMAR SHARMA

Order

04/01/2021

1. This petition has been filed under Section 482 Cr.P.C for quashing of FIR No.296/2020 registered at Police Station Sikandara, District Dausa for the offences under Sections 454, 354, 323, 506, 34 IPC and Sections 3(1)(a), 3(1)(r) of S.C/S.T Prevention of Atrocities Act.
2. Heard learned counsel for both the sides and perused the material available on record.
3. Learned counsel for the petitioner submits that this FIR has been lodged against the accused petitioner with absolutely false and fabricated allegations. No allegation of rape has been mentioned in the FIR but afterwards Investigating Agency is adamant to add the offence under Section 376 IPC against the petitioner. The investigation in the matter is not being conducted in fair and impartial manner as the present Investigating Officer belongs to same caste to which the complainant party belongs. The FIR deserves to be quashed. Therefore, the investigation should be changed and appropriate directions should be issued for proper and impartial investigation.

4. Learned Public Prosecutor submits that appropriate directions may be issued.

5. Alleged grounds for quashing of the impugned FIR as per the legal position expounded by the Hon'ble Supreme Court of India in **State of Haryana Vs. Bhajan Lal [1992 (supp) 1 SCC 35]** can only be disclosed after due investigation. Further, as per **P. Chidambaram Vs. Directorate of Enforcement [(2019) 9 SCC 24]** the investigation is in the domain of the Investigating Agency and the courts are not supposed to interfere in the investigation. At the same time the accused is entitled to avail due legal remedies available to him for protection of his/ her personal liberty.

6. Therefore, in light of above legal position, it is not appropriate to stay the investigation in the matter, however, having regard to the above submissions but without expressing any opinion on merits, it is directed that the investigation shall continue. The petitioner shall join the investigation and shall appear before the Investigating Officer on or before 11.01.2021 and as and when he is called upon to do so, but he shall not be arrested without prior notice of seven days.

7. Learned Public Prosecutor shall procure the status report of investigation by the next date positively.

8. List the matter on 01.02.2021.

(SATISH KUMAR SHARMA),J