

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Criminal Miscellaneous (Petition) No.4090/2019

Arvind Trivedi S/o Shivvilas Trivedi, aged about 52 Years, R/o Chopra Farm Gali No.5, Bhimganj Mandi, Ward No.12, Police Station Bhimganj Mandi, District Kota (Rajasthan).

-----Petitioner/Complainant

Versus

1. State of Rajasthan through P.P.

-----Respondent

2. Vijaypal Singh through Chairman Shri Rangreshwar Nath Mahadev Mandir, Rangpur Road, Kota Junction, Kota, Raj.

3. Narendra Kumar Jadon Mahamantri Shri Rangreshwar Nath Mahadev Mandir, Rangpur Road, Kota Junction, Kota, Raj.

4. Ashok Machal S/o Shri Jamnalal Ji Machal, Treasure Shri Rangreshwar Nath Mahadev Mandir, Rangpur Road, Kota, Raj.

5. Rajaram Karamyogi @ Ravan Sarkar S/o Not Known, R/o Sabjimandi, Near Bus Stand, Kota.

-----Respondents/Accused

For Petitioner(s) : Mr. T.C. Vyas

For Respondent(s) : Mr. Manvendra Singh Shekhawat, PP
Mr. Pawan Kumar Verma

HON'BLE MR. JUSTICE ANAND SHARMA

Order

07/11/2025

1. This criminal miscellaneous petition has been filed by the petitioner-complainant feeling aggrieved by order dated 23.07.2018 passed by Judicial Magistrate No.5, (North) Kota, Rajasthan, whereby negative final report filed by the police authorities pursuant to FIR No. 405/2017 lodged by the petitioner-

complainant against the respondents-accused under Sections 295A, 379 & 120B of IPC has been accepted.

2. Petitioner has also challenged order dated 13.03.2019 passed by Additional Sessions Judge No.5, Kota, Rajasthan, whereby revision petition filed by the petitioner against order dated 23.07.2018 has been dismissed.

3. Learned counsel for the petitioner submits that in respect of action of the respondents-accused with regard to maliciously removing idol of Lord Shiva, one civil suit bearing No.417/2017 was also instituted by the petitioner in the Court of Civil Judge, (North) Kota, against the respondents-accused which has been decreed by the learned Civil Court vide judgment and decree dated 28.10.2020, wherein directions have been given for restoring the idol of Lord Shiva at its original place.

4. Learned counsel for the petitioner further submits that thus the finding of learned Civil Judge would reveal that the idol was illegally removed by the respondents-accused, hence, the learned Courts below, while accepting the negative final report submitted by the police authorities in respect of same cause of action, have committed serious illegality, irregularity and jurisdictional error. Contents of FIR were explicitly clear and would make out cognizable offence against the respondents-accused, yet defective investigation was conducted by the police authorities and negative final report was filed. Hence, he prayed for quashing the impugned orders passed by the learned Courts below and to direct the learned Competent Court to take cognizance against the respondents-accused.

5. Learned counsel for the complainant as well as learned Public Prosecutor opposed the present petition and submitted that the negative factual report along with entire record, statements under Section 161 Cr.P.C. as well as the documents were properly considered by the learned trial Court and it was found that after meticulously conducting investigation, negative final report was filed by the police authorities and there was no case of taking cognizance against the respondents-accused. The order passed by the learned trial Court has further been examined by the learned Revisional Court and no jurisdictional error whatsoever has been found by the learned Revisional Court while dismissing the revision petition filed by the petitioner.

6. Moreso, where the dispute raised by the petitioner was of civil nature and could have been resolved only by the learned Civil Court and as, in fact it has been adjudicated by the learned Civil Court vide judgment and decree dated 28.10.2020, it is clear that invoking criminal jurisdiction in such matter was totally abuse of process of the law. Hence, they prayed for rejecting the instant petition filed by the petitioner.

7. Heard and considered.

8. From the perusal of the record, it is clear that entire process was followed by the police authorities in conducting investigation and after completion of investigation, negative final report was proposed and was filed before the learned Competent Court. The protest petition filed by the petitioner-complainant was duly considered, however, the petitioner-complainant has utterly failed to point out any serious flaw or defect in the investigation conducted by the police authorities. Petitioner-complainant also

utterly failed to place any material on record along with his protest petition, nor could he prove through statements under Sections 200 & 202 Cr.P.C., that the investigation conducted by the police authorities was faulty. Thus, no error whatsoever has been committed by the learned trial Court in accepting final report and rejecting the protest petition filed by the petitioner-complainant.

9. The order passed by the learned trial Court has also been scrutinized by the learned Revisional Court and no material irregularity or illegality was found in the order of the learned trial Court.

10. The petitioner has utterly failed to point out any jurisdictional error or perversity in the orders passed by the learned Courts below. Moreso, under the circumstances, where admittedly civil litigation was going on in respect of same cause of action and the dispute has finally been adjudicated by the learned Civil Court, no criminal element appears to have been involved in the instant matter. Hence, I do not find any ground to interfere in the instant petition.

11. Accordingly, the present Criminal Miscellaneous Petition is dismissed.

12. Pending application(s), if any, also stands disposed of.

(ANAND SHARMA),J