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IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN  
AT JAI PUR BENCH, JAI PUR

O R D E R

S. B. CRIMINAL REVISION PETITION NO. 180/2001

*GAJRAJ SINGH & ORS. Vs. STATE OF RAJASTHAN*

DATE: 31. 01. 2007.

HON'BLE MR. K. S. RATHORE, J.

Mr. S. S. Hora for the petitioners.

Mr. Ashwani Kumar Sharma, PP for the State.

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This revision petition under Section 397 r/w Section 401 Cr. P. C. is preferred by the petitioners against the order dated 19.12.2000 passed by the Civil Judge (Jr. Division) & Judicial Magistrate- I Class, Kekri, District Ajmer in Criminal Case No. 91/86- State of Rajasthan Vs. Gajraj Singh & Ors., whereby charges under Section 380 IPC and Section 42 of the Rajasthan Forest Act have been framed against the petitioners.

Brief facts of the case are that on 10.02.86 FIR No. 9/86 came to be lodged against the petitioners at Police Station Sawar, District Ajmer, wherein it was alleged that on 08.02.86 a tractor No. RSZ-9007 carrying Babool wood of around 80 mann weight was seized violating the provisions of Section 41 of the Rajasthan Forest Act, 1953. The said tractor was seized and parked at Chowki, from there Gajraj Singh, tractor

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driver and Madan s/o Ramdhan an Sitaram S/o Hansraj came and took away the tractor despite of the fact that the employees of the forest department have tried to stop it.

Having considered the facts and circumstances of the case, the trial Court has framed charges against the petitioners under Section 380 IPC and Section 42 of the Rajasthan Forest Act.

I have considered the rival submissions of the respective parties and have also gone through the impugned order dated 19.12.2000.

So far as charge under Section 380 IPC is concerned, I find no illegality or error apparent on the face of the record and no interference whatsoever is required by this Court.

At this stage, learned counsel for the petitioners submits that the petitioners may be given liberty to move application before the trial Court to satisfy that no offence under Section 380 IPC is made out against the petitioners. The petitioners may do so.

As regards charge under Section 42 of the Rajasthan Forest Act, learned counsel for the petitioners referred a Notification dated 09.04.87 published in Rajasthan Gazette on 25.06.87, wherein while exercising the powers conferred under second proviso to Rule 2 of the Rules of 1957, the State

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Government exempted the transportation of forest produce of Deshi Babool .

This aspect has not been properly considered by the trial Court and, therefore, the charge under Section 42 of the Rajasthan Forest Act is prima-facie not made out against the petitioners in view of the Notification dated 09.04.87.

Therefore, the impugned order dated 19.12.2000 is maintained to the extent of framing of charge under Section 380 IPC, but so far as charge under Section 42 of the Rajasthan Forest Act is concerned, the impugned order is herewith quashed and set-aside.

The revision petition stands disposed of accordingly.

(K. S. RATHORE), J.

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