

[1]

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

O R D E R

S.B. CRIMINAL MISC. PETITION NO. 54/2008

SANJAY PUNJABI Vs. STATE OF RAJASTHAN

Date: 29.02.2008.

HON'BLE MR. JUSTICE K.S. RATHORE

Mr. Pankaj Gupta for the complainant-petitioner.
Mr. Arun Sharma, Public Prosecutor for the State.

The instant criminal misc. petition under Section 482 Cr.P.C. has been filed by the complainant-petitioner against the order impugned dated 07.08.2007 passed by the Additional Sessions Judge, Hindauncity in Criminal Revision No. 64/2007, whereby the revision petition preferred by the petitioner has been dismissed and the order dated 05.04.2006 passed by the Additional Chief Judicial Magistrate, Hindauncity has been confirmed, by which final report in relation to FIR No. 327/2003 registered at Police Station Hindauncity has been accepted and the protest petition filed by the petitioner has been dismissed.

The contention of the learned counsel for the petitioner is that while accepting final report and rejecting the protest petition filed by the complainant-petitioner, the trial Court has utterly failed in appreciating the evidence

recorded under Section 200 and 202 Cr.P.C. and without relying upon the statements recorded by the police under Section 161 Cr.P.C. rejected the protest petition. The Revisional Court also not care to examine all these aspects and upheld the order of the trial Court dated 05.04.2006 vide its order impugned dated 07.08.2007.

In support of his submissions, the learned counsel for the petitioner has placed reliance on the judgment rendered by this Court in the case of **Badri Vs. State of Rajasthan, 2000(1) R.L.R. 568**, wherein this Court has held that the trial Court is required to apply its judicial mind to all the material before it including F.R. of police along with material submitted therewith as also the statements of the complainant u/ss 200 & 202.

Per se, it appears that the trial Court has not properly appreciated the evidence adduce before it and dismissed the protest petition filed by the complainant-petitioner.

Having considered the rival submissions of the respective parties and in view of the ratio decided by this Court in the case of **Badri Vs. State of Rajasthan (supra)**, this Court deem it proper to quash and set aside the orders impugned dated 05.04.2006 and 07.08.2007 passed by the trial Court and the Revisional Court respectively

[3]

and remand the matter back to the trial Court for fresh adjudication with the direction that the trial Court shall pass fresh order after appreciating the statements recorded under Sections 200 and 202 Cr.P.C.

with these observations, the criminal misc. petition stands disposed of.

(K.S. RATHORE)J.

/KKC/