

HIGH COURT OF JAMMU AND KASHMIR
AT JAMMU

561-A No. 390/2013, MP No. 473/2013

Date of order: 30.11.2017

Deepak Gupta and another	vs.	State of J&K and others
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Coram:

Hon'ble Mr. Justice Janak Raj Kotwal, Judge

Appearance:

For petitioner/appellant(s) : Mr. Ajay Kumar Gandotra, Advocate

For applicant/respondent (s) : Mr. S. S. Nanda, Sr. AAG

Mr. Amit Chopra, GA

Mr. R. P. Sharma, Advocate

In this petition under section 561-A Cr.P.C. petitioners seek quashing of FIR No. 02/2005 of Police Station, Gangyal and the charge-sheet arising in the said case.

Heard learned counsel for the parties and perused the record.

FIR No. 02/2005 was registered on a report lodged by an officer of the State Financial Corporation, herein respondent No. 3, on 05.01.2005. On completion of investigation, charge-sheet under sections 427, 448 and 382 RPC was preferred by the Police, which came up for trial before the learned Municipal Mobile Judicial Magistrate, Jammu. Learned Magistrate on consideration of the material produced by the prosecution found *prima facie* case under sections 427, 448 and 382 RPC against the petitioners and framed the charges against them on 18.07.2006. Petitioners pleaded not guilty and claimed to be tried. The trial lingered on for over nine years for

the reasons mostly attributable to defence and in the process evidence of only one witness was. At that stage the petitioners filed this petition invoking inherent jurisdiction of this Court to seek quashing of the FIR, the charge-sheet filed by the Police as also the entire criminal proceedings commenced against them.

The quashing of the FIR is sought mainly on the ground that the petitioners have been falsely implicated inasmuch as during pendency of the proceedings an application for release of seized stolen property was filed by petitioner No. 1 in which the respondent No. 3 (informant) on whose report the FIR was registered made a statement that no material was kept at his superdari.

It needs to be pointed out that the petitioners faced the trial for eight long years after framing of the charges against them by the trial court after consideration of the record of the case. This in turn means that they faced the charges without any grievance. Having faced the charges framed against them for such a long period of time, the petitioners cannot be heard seeking quashing the FIR and the charge-sheet filed by the Police and this petition, therefore, deserves dismissal on that score only. That apart, the grounds on which quashing is sought do not persuade this court to take a view that a case for showing indulgence by invoking inherent jurisdiction under section 561-A Cr.P.C. is made out, having regard to the record of the case.

Viewed thus, this petition is **dismissed**.

Record of the trial court be remitted back along with copy of this order where both the parties shall cause their appearance on 22.12.2017.

(Janak Raj Kotwal)
Judge

Jammu
30.11.2017
Meenakshi

