



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Criminal Misc(Pet.) No. 4859/2024

1. Ram Chandra Bisu S/o Shiv Karan, Aged About 52 Years, Village Nimbola Kallan, Tehsil Riyan Badi, Distt. Nagaur.
2. Manju Devi W/o Ram Chandra Bisu, Aged About 51 Years, Village Nimbola Kallan, Tehsil Riyan Badi, Distt. Nagaur.
3. Sunil Bisu S/o Ram Chandra Bisu, Aged About 29 Years, Village Nimbola Kallan, Tehsil Riyan Badi, Distt. Nagaur.
4. Girdhari Lal S/o Ganesh Ram, Aged About 42 Years, Village Nimbola Kallan, Tehsil Riyan Badi, Distt. Nagaur.
5. Puna Ram S/o Ganesh Ram, Aged About 40 Years, Village Nimbola Kallan, Tehsil Riyan Badi, Distt. Nagaur.
6. Mula Ram Bisu S/o Ram Chandra Bisu, Aged About 30 Years, Village Nimbola Kallan, Tehsil Riyan Badi, Distt. Nagaur.
7. Geeta Devi W/o Mula Ram, Aged About 29 Years, Village Nimbola Kallan, Tehsil Riyan Badi, Distt. Nagaur.
8. Suman Faroda W/o Sunil, Aged About 28 Years, Village Nimbola Kallan, Tehsil Riyan Badi, Distt. Nagaur.
9. Mansha Ram S/o Bhanwara Ram, Aged About 42 Years, Village Padu Khurd, Tehsil Riyan Badi, Distt. Nagaur.

----Petitioners

Versus

1. State Of Rajasthan, Through Pp
2. Nainu Ram S/o Dev Karan, Nimbola Vishva, Tehsil Riyan Badi, Distt. Nagaur. Presently Residing At Soodwas Bus Stand, Post Bhorunda, Tehsil Riyan Badi, Distt. Nagaur.

----Respondents

For Petitioner(s) : Mr. Jagmal Singh Choudhary, Senior Advocate assisted by Mr. Pradeep Choudhary

For Respondent(s) : Mr. Vikram Singh Rajpurohit – PP

HON'BLE MR. JUSTICE ARUN MONGA

**Judgment (Oral)****09/10/2024**

1. Assailed herein is an FIR No.221/2023 dated 18.08.2023 registered at Police Station A.C.B., Jaipur (out post Ajmer) for the offences under Sections 420, 467, 468, 471, 409 & 120-B IPC and Sections 7, 13(1)(A), 13(1)(C)(D) & 13(2) of the Prevention of Corruption Act.

2. Briefly, the relevant facts pleaded in the petition are that the complainant Nainu Ram submitted a complaint before ACB, Ajmer against the then Chairman (petitioner No.1-Ram Chandra Bisu) of Gram Seva Sahkari Samiti Soodwad and Chairperson (petitioner No.2 – Manju Devi), Manager (petitioner No.9-Mansha Ram) of Gram Seva Sahkari Nimbola Vishwaand other petitioners stating therein that they have indulged in serious corruption. They sanctioned loans to their family members based on forged documents, even though those individuals are not having agricultural lands in their names. Later, they granted the benefit of loan waiving scheme of government to those persons. Further, Ram Chandra (petitioner No.1) and Manju Devi (petitioner No.2) by giving false affidavit and concealing the fact of having third child, Manju Devibecame the Chairperson of the society.

2.1. On the basis of the said complaint and inquiry report, ACB, Jaipur (outpost Ajmer) registered the case as C.R. Case No.221/2023 dated 18.08.2023 for the said offences and started further investigation.

2.2. It is stated that ACB, Ajmer conducted the inquiry into the matter and after inquiry it was found that Smt. Manju Devi, Chairman of Samiti Nimbola Vishwa and Ram Chandra, Chairman



of Samiti Soodwad, Shri Mansha Ram, Manager and Shafik Mohd., Supervisor while misusing their power entered into criminal conspiracy with private persons, prepared the false document and made false report of Patwari on loan applications of applicants and, on the basis of such report, the benefit of loan waive scheme was given to such persons and thus, petitioners have caused loss to the government fund of Rs.8,24,383/-.

3. In the aforesaid backdrop, I have heard learned Senior Counsel and learned Public Prosecutor and perused the case file as well as the FIR in question.

4. Learned Senior Counsel for the petitioners submits that petitioners neither committed any cheating with complainant nor they have misappropriated any amount of government fund. He further submits that earlier in the year 2020, one Manohar Lal (brother of complainant Nainu Ram) had also filed a complaint in the court of ACJM, Degana against the petitioners for the same set of allegations as levelled in the present FIR. The said complaint was registered as Complaint No.06/2020 and trial is underway.

4.1. He informs that during pendency of the said complaint, complainant Manohar Lal expired and the present complainant Nainu Ram was substituted as complainant in the said case being the brother of original complainant.

4.2. Learned Senior Counsel would further submit that two criminal proceedings have thus been instituted against the petitioners on the same set of factual matrix. Therefore, the impugned FIR is liable to be quashed and set aside.

5. Having heard and perused the case file, it transpires that primarily the challenge to the FIR herein is pivoted on the ground



that based on the same set of allegations and the facts involved in this case, earlier a complaint was filed by the informant of the FIR, in which, the learned Magistrate has already taken cognizance vide order dated 09.07.2024 and the trial is going on.

6. In this context reference may be had to Section 233 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (corresponding to Section 210 of the Cr.P.C.), which for ready reference is reproduced hereinbelow:-

“233. Procedure to be followed when there is a complaint case and police investigation in respect of the same offence. - (1) When in a case instituted otherwise than on a police report (hereinafter referred to as a complaint case), it is made to appear to the Magistrate, during the course of the inquiry or trial held by him, that an investigation by the police is in progress in relation to the offence which is the subject-matter of the inquiry or trial held by him, the Magistrate shall stay the proceedings of such inquiry or trial and call for a report on the matter from the police officer conducting the investigation.

(2) If a report is made by the investigating police officer under section 193 and on such report cognizance of any offence is taken by the Magistrate against any person who is an accused in the complaint case, the Magistrate shall inquire into or try together the complaint case and the case arising out of the police report as if both the cases were instituted on a police report.

(3) If the police report does not relate to any accused in the complaint case or if the Magistrate does not take cognizance of any offence on the police report, he shall proceed with the inquiry or trial, which was stayed by him, in accordance with the provisions of this Sanhita”

7. A perusal of the above leaves no manner of doubt that even if the complaint proceedings have already been initiated and the police officials receive a report/complaint on the same set of allegations they are not barred from registering a subsequent FIR. All that is mandated procedurally as per the section *ibid* is that the learned Magistrate shall stay the further proceedings in the complaint, which has been instituted prior to the registration of the FIR so as to await the outcome of the inquiry/investigation by the Investigating Officer as envisaged under Section 173 of the Code *ibid*.



[2024:RJ-JD:41362]



[CRLMP-4859/2024]

8. In the premise, the petition is disposed of with the direction that the further proceedings in the private complaint being Complaint No.06/2020 instituted by the complainant, who subsequently lodged the FIR, shall remain stayed subject to the outcome of the inquiry/investigation to be conducted by the Investigating Officer in the present FIR in accordance with law.

9. All pending application(s), if any, shall stand(s) dismissed.

(ARUN MONGA),J

197-AK Chouhan/-

Whether fit for reporting : Yes / No