

State of Punjab

Vs

Raj Singh and Anr.

(M. K. Mukherjee, K. T. Thomas JJ)

16.01.1998

ORDER

1. Leave granted. Heard the learned counsel for the parties.

2. We are unable to sustain the impugned order of the High Court quashing the F.I.R. lodged against the respondents alleging commission of offences under Sections 419, 420, 467 and 468 I.P.C. by them in course of the proceeding of a civil suit, on the ground that Section 195 (1) (b) (ii) Cr.P.C. prohibited entertainment of and investigation into the same by the police. From a plain reading of Section 195 Cr.P.C. it is manifest that it comes into operation at the stage when the Court intends to take cognizance of an offence under Section 190 (1) Cr.P.C.; and it has nothing to do with the statutory power of the police to investigate into an F.I.R. which discloses a cognizable offence, in accordance with Chapter XII of the Code even if the offence is alleged to have been committed in, or in relation to, any proceeding in Court. In other words, the statutory power of the Police to investigate under the Code is not in any way controlled or circumscribed by Section 195 Cr.P.C. It is of course true that upon the charge-sheet (challan), if any, filed on completion of the investigation into such an offence the Court would not be competent to take cognizance thereof in view of the embargo of Section 195 (1) (b) Cr.P.C., but nothing therein deters the Court from filing a complaint for the offence on the basis of the F.I.R. (filed by the aggrieved private party) and the materials collected during investigation, provided it forms the requisite opinion and follows the procedure laid down in Section 340 Cr.P.C. The judgment of this Court in Gopal Krishna Menon and Anr. Vs. D. Raja Reddy [AIR 1983 SC 1053], on which the High Court relied, has no manner of application to the facts of the instant case for there cognizance was taken on a private complaint even though the offence of forgery was committed in respect of a money receipt produced in the Civil Court and hence it was held that the Court could not take cognizance on such a complaint in view of Section 195 Cr.P.C.

3. For the foregoing reasons, we allow this appeal and set aside the impugned order.