



**HIGH COURT OF JUDICATURE FOR RAJASTHAN  
BENCH AT JAIPUR**



S.B. Criminal Miscellaneous (Petition) No. 2534/2020

Jitendra Gupta S/o Banwari Lal Gupta, R/o Kaririya, Teh  
Laxmangarh, District Rajasthan.

----Petitioner

Versus

State Of Rajasthan, Through PP

----Respondent

For Petitioner(s) : Mr. Girish Khandelwal  
For Respondent(s) : Mr. Chandragupta Chopra, PP

**HON'BLE MR. JUSTICE ANIL KUMAR UPMAN**

**Order**

**23/04/2024**

1. Instant petition has been filed under Section 482 Cr.P.C. for quashing of FIR No.45/2013 registered at Police Station Forest Department, Barodamev, District Alwar for the contravention of provisions of Section 41 of the Rajasthan Forest Act, 1953 which are punishable under Section 42 of the Rajasthan Forest Act, 1953.

2. Learned counsel for the petitioner submits that offence under Section 42 of the Rajasthan Forest Act, 1953 is not punishable beyond a period of three years and as per Schedule-II of Code of Criminal Procedure, 1973, alleged offences shall be considered as non-cognizable offences for which FIR cannot be registered. It is submitted that registration of FIR for the offences punishable under Section 41/42 of Rajasthan Forest Act, 1953 is the abuse of process of law and, therefore, same is liable to be quashed and set aside. Learned counsel relied upon the judgment



passed by Co-ordinate Bench of this Court in S.B. CRLMP No.2002/2015 titled as **Mousam Khan v. State of Raj. & Anr.** decided on 29.04.2015, wherein it was held as under:-



“Thus, it is apparent that offence under section 41/42 of the Rajasthan Forest Act, 1953 is non-cognizable offence and petitioner can only be prosecuted by filling a complaint by the authorised/competent Officer. No FIR in the present case, could have been registered. Further, Police Officer concerned has not obtained permission from the Magistrate concerned for investigation of the offence.

In view of the above, the proceedings initiated in pursuance of the impugned FIR cannot be sustained and are liable to be set aside. Consequently, the present petition is accepted and the impugned FIR is quashed along with all subsequent proceedings. However, liberty is granted to the competent authorised Officer to file a complaint in accordance with the provisions of law, if it is not barred by limitation.”

3. Learned State counsel opposed the submission made by learned counsel. He submits that registration of FIR is well within jurisdiction of the concerned police station.

4. In view of these facts and circumstances and the law laid down by the Co-ordinate Bench of this Court, impugned FIR is not sustainable and liable to be set aside.

5. Consequently, this petition is allowed and impugned FIR along with subsequent proceedings are quashed.



6. However, competent authorised Officer of the concerned department would be at liberty to file a complaint in accordance with the provisions of law.

(ANIL KUMAR UPMAN),J

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