

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

S.B. Criminal Misc(Pet.) No. 4577/2025

Kantu Singh S/o Shri Haliya Damor, Aged About 40 Years, R/o
Bhatamhudi Timeda, Bada Tehsil Kushalgarh, District Banswara.

----Petitioner

Versus

1. State Of Rajasthan, Pp
2. Mavji S/o Shri Unkar Khat, R/o C95, Mahi
Sarovar ,banswara

----Respondents

Connected With

S.B. Criminal Misc(Pet.) No. 716/2025

Shivlal Charpota S/o Shri Valu Charpota, Aged About 35 Years,
R/o Khokharwa, Banswara,raj.

----Petitioner

Versus

1. State Of Rajasthan, Through Pp
2. Dist. Education Officer (Primary), Banswara

----Respondents

For Petitioner(s)	:	Mr. Ashok Upadhyay Mr. Ramesh Kumar Mr. Nishant bora
For Respondent(s)	:	Mr. Narendra Singh, PP

HON'BLE MR. JUSTICE KULDEEP MATHUR

Order

14/07/2025

By way of filing the instant criminal misc. petitions under
Section 528 BNSS, the petitioners have prayed for the following
reliefs:-

In S.B. Criminal Misc(Pet.) No. 4577/2025-

*"It is, therefore, most respectfully prayed that this
petition may kindly be allowed and the impugned FIR
No.187/2024 registered at Police Station Kushalgarh, District
Banswara, may kindly be quashed and set aside."*

In S.B. Criminal Misc(Pet.) No. 716/2025-

"It is, therefore, most respectfully prayed that this Misc. Petition may kindly be allowed and the entire subsequent investigation arising out of F.I.R. No. 187/2024 for the offences u/s 419, 420, 467, 468 and 471, of IPC, 66D of IT Act 2008 & section 3, 4 & 6 of Rajasthan Public Examination (Prevention Of Unfair Means) Act, 1992 registered at Police Station Kushalgarh, District Banswara and further proceedings may kindly be quashed and set aside."

2. The petitioners are charged with offences punishable under Sections 419, 420, 467, 468, 471 of IPC, Sections 66-D of Information Technology Act which provides punishment for cheating by personation using any communication device or computer resource as well as Sections 3, 4 and 6 of Rajasthan Public Examination (Prevention of Unfair Means) Act, 2022.
3. As per the prosecution, the petitioners have sent dummy candidates in REET Examination in their places and cleared the same. Thereupon, on the basis of the marks obtained by the dummy candidates in the REET Examination, the petitioners have secured appointment on the post of Teacher, Grade III.
4. Learned counsel for the petitioner submitted that admittedly, the dummy candidates was/were not apprehended in examination hall, rather the case has been registered by the investigating agency against the petitioners after more than five year of their appointment on the post of Teacher Grade III. Learned counsel submitted that prior to appointment of the petitioners on the post of Teacher, they went through D.V. (document verification) process, and personal interview etc., and therefore, the impugned FIR lodged against them on the ground that someone else

(dummy candidates) sat in their places in the REET Examination by impersonating them deserves to be quashed and set aside by this Court.

5. This Court looking to the nature of controversy involved in the present case, directed the learned Public prosecutor to call for the factual report.

6. In compliance of the order dated 07.07.2025 passed by this Court, the learned Public Prosecutor has placed on record the factual report dated 07.07.2025 received by him from the office of SHO P.S. Kushalgarh, District Banswara.

7. The factual report indicates that police during the course of investigation has *prima facie* found that the photographs of the petitioners on their REET Examination application forms do not match with the other documents pertaining to educational qualification submitted by them to the Educational Department. Further, when the police arrested one Deepak Kumar Parmar in connection with the impugned FIR, he has verified the place where the money was exchanged between the parties in his statements recorded under Section 27 of Indian Evidence Act. Further, the factual report indicates that the petitioners are not cooperating with the investigating agency. Thus, *prima facie* the offences have been found to be proved against the present petitioners.

8. Heard learned counsel for the parties at Bar. Perused the material available on record.

9. Having perused the case file and the factual report, this Court *prima facie* finds that serious allegations of obtaining government job by playing fraud, cheating and mischief have been

levelled against the petitioners. In the opinion of this Court, the impugned FIRs cannot be quashed or set aside or the investigation in the matter cannot be stalled merely because the case against the petitioners is registered after five years of the incident. In the opinion of this Court, if the petitioners have cleared the REET Examination which is essential for securing job as Teacher Grade III by making someone else sit in their place in the examination, then certainly, the petitioners deserve to face the criminal trial for the alleged offences. The entire public appointments rests on the principle of equity in employment and nobody could be permitted to tinkle with selections by playing fraud and mischief.

10. The Hon'ble Supreme Court of India in the case of **State of Haryana vs. Bhajan Lal & Ors.** reported in **1992 Supp. (1) SCC 335**, has illustrated the situations wherein, the extraordinary powers under Article 226 of the Constitution of India or the inherent powers under Section 482 Cr.P.C. (528 BNSS) can be exercised by the High Court either to prevent abuse of the process of any Court or otherwise to secure the ends of justice. The Hon'ble Supreme Court illustrated as under:-

- “(a) where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused;
- (b) where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code;
- (c) where the uncontroverted allegations made in the FIR or 'complaint and the evidence collected in support of the same do not disclose 265 the

commission of any offence and make out a case against the accused;

- (d) where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code;
- (e) where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused;
- (f) where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party;
- (g) where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

11. In view of aforesaid discussion and taking into consideration the precedent law, this Court does not find any of the aforesaid conditions to be *prima facie* fulfilled in the present case and thus this Court is not inclined to exercise the powers vested in it under Section 528 of BNSS for quashing the FIR in question qua the petitioners.

12. Accordingly, the criminal misc. petitions are dismissed.

13. Stay petitions also stand disposed of accordingly.

14. A copy of this order be placed in each file.

(KULDEEP MATHUR),J