

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

S.B. Criminal Misc(Pet.) No. 2267/2026

Madhav Prasad Jaithaliya S/o Shri Bhanwar Lal Jaithaliya, Aged
About 72 Years, Resident Of 17/25 Nai Sham Ki Sabji Mandi,
District Bhilwara, Rajasthan

-----Petitioner

Versus

1. State Of Rajasthan, Through Pp
2. Udai Lal S/o Chhoga Lal, Aged About 100 Years, Resident
Of Main Choraha, Kota Road, Nai Iras, Police Station
Sadar, Bhilwara, Rajasthan

-----Respondents

For Petitioner(s) : Mr. B.S. Charan

For Respondent(s) : Mr. V.S. Rajpurohit, PP

HON'BLE MR. JUSTICE BALJINDER SINGH SANDHU

Order

25/03/2026

The instant Criminal Miscellaneous Petition has been preferred by the petitioner under Section 528 of the *Bharatiya Nagarik Suraksha Sanhita, 2023* (BNSS) against the order dated 21.01.2026 passed by the learned Special Judge, SC/ST (Prevention of Atrocities) Act Cases, Bhilwara in Criminal Revision No. 61/2020, whereby the order of cognizance passed by the learned Additional Chief Judicial Magistrate No. 2, Bhilwara in Criminal Complaint Case No. 49/2017 has been affirmed.

Learned counsel for the petitioner submits that in the present case, the petitioner is the registered owners and the sale deed (registry) was duly executed by the complainant. However, the complainant has alleged that the same was never executed. It

is further submitted that a suit for possession was filed by the petitioner, which has been dismissed, holding that as per the registered sale deed the possession was handed over to the petitioner.

Learned counsel further submits that a complaint was filed by the complainant, and during the course of police inquiry, it has been specifically found that no case is made out against the petitioner, as reflected in the inquiry report dated 07.02.2018.

He submits that despite the above, and without availing the appropriate civil remedy of seeking cancellation of the registered sale deed, the complainant has preferred the present complaint to pressurize the petitioner, during the pendency of the civil suit.

It is also contended that the learned Magistrate has taken cognizance without taking into consideration the inquiry report and without recording any reasons for disagreement with the finding that no case is made out. Further, the revisional court has erred in dismissing the revision petition.

Learned counsel submits that the impugned orders are contrary to the law laid down in ***Bhagwan Sahai Khandelwal & Ors. vs. State of Rajasthan & Anr., 2006 (2) WLC 239***, wherein it has been held that the learned Magistrate is required to record reasons, particularly while differing from the inquiry report.

In view of the above, this Court is inclined to interfere in the matter.

Issue notice to the respondents.

Learned Public Prosecutor accepts notice on behalf of the respondent–State.

Let notice be issued to respondent No. 2, returnable within a period of four weeks.

In the meanwhile, further proceedings pending before the learned Additional Chief Judicial Magistrate No. 02, Bhilwara in Criminal Case No. 61/2020 (CIS No. 62/2020) shall remain stayed.

(BALJINDER SINGH SANDHU),J

51-Hanuman/-