

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

S.B. Criminal Miscellaneous (Petition) No. 5221/2026

CNR: RJHC010616062026

URN: CRLMP / 9365U / 2026

1. Shri Kishan Dave S/o Late Shri Ramakishan Ji Shrimali,
Aged About 74 Years, Resident Of Ram Krishan Bhawan
Sinwanchi Gate Bari, Jodhpur
2. Manish Dave S/o Late Shri Laxmi Narayan, Aged About 39
Years, Resident Of Guru Kripa Bhawan, Siwanchi Gate,
Jodhpur.

----Petitioners

Versus

State Of Rajasthan, Through The Home Secretary, Seret Rate
State Of Rajasthan, Jaipur. Raj.

----Respondent

For Petitioner(s)	:	Mr. HR Soni Mr. Narottam Soni Mr. Jitendra Soni Ms. Tripti Soni
For Respondent(s)	:	Mr. PK Bhati

HON'BLE MR. JUSTICE BALJINDER SINGH SANDHU

Order

09/07/2026

Learned counsel for the petitioner submits that, in the present case, the petitioner is holding a *patta*, which has been upheld by the Division Bench of this Court. He further submits that the petitioner was sought to be removed from the *patta sudha* land where the alleged incident occurred, and thereafter, the present FIR came to be registered. He further submits that merely carrying out construction on his *patta sudha* land does not attract the offences in question, especially when the petitioner's title under the *patta* has already been upheld. It is also submitted that

the learned trial Court as well as the Revisional Court failed to consider the judgment of the Division Bench, whereby the petitioner's *patta* in respect of the same land was upheld.

Learned counsel for the petitioner further places reliance upon the judgment of the Hon'ble Apex Court in ***Rajiv Thapar & Ors. v. Madan Lal Kapoor, Criminal Appeal No. 174 of 2013 arising out of SLP (Criminal) No. 4883 of 2008***, wherein it has been held that where there is clinching and incontrovertible evidence, the same ought to be considered while examining the maintainability of criminal proceedings.

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

Learned Public Prosecutor seeks time to file a reply.

Time prayed for is granted.

Issue notice to the sole respondent, returnable within eight weeks.

Learned Public Prosecutor accepts notice on behalf of the respondent.

Meanwhile, till the next date of hearing, further proceedings in Criminal Original Case No. 233/2012 titled "**State v. Sri Kishan Dave & Ors.**", pending before the Court of AMM No. 1, Jodhpur Metropolitan, shall remain stayed.

(BALJINDER SINGH SANDHU),J