

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

S.B. Criminal Miscellaneous (Petition) No. 5116/2026

CNR: RJHC010628282026

URN: CRLMP / 9198U / 2026

Dinesh Saran S/o Shri Gorkha Ram, Aged About 42 Years, R/o Somalsar, Police Station Nokha, District Bikaner, At Present Working As Station House Officer, Police Station Suratgarh Shahr, District Srigangangar, Rajasthan.

-----Petitioner

Versus

1. State Of Rajasthan, Through Public Prosecutor.
2. Aarti W/o Shri Hetram, R/o Kishanpura Tehsil Surajgarh, District Srigangangar, Rajasthan.

-----Respondents

For Petitioner(s)	:	Mr. Dharendra Singh, Sr. Adv. assisted by Mr. Ramdev Rajpurohit
For Respondent(s)	:	Mr. Vikram Rajpurohit, PP

HON'BLE MR. JUSTICE BALJINDER SINGH SANDHU

Order

21/07/2026

Learned counsel for the petitioner submits that the complainant initially submitted a complaint before the petitioner on 16.04.2026, whereupon the same was referred for a preliminary inquiry. However, in the meantime, the complainant submitted another complaint before the Superintendent of Police on 17.04.2026 and thereafter filed a complaint before the learned Judicial Magistrate on 27.04.2026.

It is submitted that when the complainant was called upon to participate in the preliminary inquiry, she declined to do so on the ground that the matter was already pending before the learned

Judicial Magistrate. Consequently, no further progress could be made in the inquiry, as the complainant herself did not participate therein. It is further submitted that an explanation to the aforesaid effect was furnished before the learned Magistrate by way of a written reply, and the same also finds mention in the impugned order. It is, therefore, contended that if there was any delay in conducting the inquiry, the petitioner cannot be held responsible for the same.

Learned counsel further submits that, in any event, the allegations, even if accepted in their entirety, do not constitute an offence under Section 199 of the Bharatiya Nyaya Sanhita, 2023. It is contended that, without recording any finding or arriving at any prima facie conclusion regarding the commission of such offence, the learned Magistrate could not have directed registration of an FIR against the petitioner, who is a public servant. It is further submitted that, despite the aforesaid, the learned Magistrate, vide order dated 24.06.2026, directed registration of an FIR against the petitioner merely on the observation that there was prima facie indifference and negligence in the discharge of his official duties. Accordingly, it is prayed that the impugned order deserves to be quashed.

Learned Public Prosecutor has vehemently opposed the submissions advanced on behalf of the petitioner.

This Court has considered the submissions advanced by learned counsel for the parties and perused the material available on record.

Prima facie, the averments made on behalf of the petitioner are supported by the documents placed on record. The impugned order itself records the explanation furnished by the petitioner that the complainant had declined to participate in the preliminary inquiry on the ground that the matter was already pending before the learned Judicial Magistrate. The petitioner has also raised a legal ground that, even if the allegations are accepted in their entirety, the essential ingredients of the offence under Section 199 of the Bharatiya Nyaya Sanhita, 2023 are not made out, on the ground that action is raised is contrary to the law laid down by the Hon'ble Supreme Court.

The matter requires consideration.

Issue notice to the respondents, returnable within six weeks.

Learned Public Prosecutor accepts notice on behalf of respondent No.1–State.

Issue notice to respondent No.2.

In the meanwhile, the effect and operation of the impugned order dated 24.06.2026 passed by the learned Additional Chief Judicial Magistrate, Suratgarh, shall remain stayed.

(BALJINDER SINGH SANDHU),J