

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Criminal Miscellaneous (Petition) No. 844/2023

Jishan Ali Son Of Shri Khalid Ali, Resident Of Khirni, Police Station Bonli, District Sawaimadhopur.

-----Petitioner

Versus

1. State Of Rajasthan, Through P.p.
2. Victim

-----Respondents

For Petitioner(s)	: Mr. Rahul Tiwari
For Respondent(s)	: Mr. Gaurav Gupta, Asstt.GA with Ms. Neha Goyal

JUSTICE ANOOP KUMAR DHAND

Order

06/05/2026

1. The instant misc. petition is listed before this Court in pursuance of the directions issued by the Hon'ble Apex Court in the case of Vijay Kumar and Ors. Vs. State of Rajasthan (Petition for Special Leave to Appeal (Crl.) No. 773/2026, decided on 15.01.2026), wherein the Hon'ble Apex Court observed that in various matters, interim orders have been passed in criminal revision petitions and petitions filed under Section 482 Cr.P.C., as a result of which trial relating to serious offences such as murder, rape, dacoity, dowry death, etc., could not proceed and remained stalled/held up due to the passage of considerable time.
2. Directions have been issued to this Court and other High Courts to take up such like matters which are pending since long, on priority and decide the same expeditiously without deferring the hearings to subsequent dates.

3. By way of filing the instant criminal misc. petition, a challenge has been led to the impugned FIR No.476/2022 registered with Police Station Bonli, District Sawaimadhopur for the offences punishable under Sections 366, 376(2)(n), 506, 509, 384, 420 and 34 IPC.

4. Learned counsel for the petitioner submits that the prosecutrix is a major lady and she was in consensual relationship with the petitioner. Counsel submits that in-fact, everything between the parties has occurred with mutual consent of both the prosecutrix and the petitioner, however later on she has lodged the impugned FIR based on false allegation that physical relations have been developed between them on account of false promise of marriage by the petitioner which he later on denied to fulfil. Counsel submits that even in the impugned FIR, no allegations of forceful sexual assault have been levelled against the petitioner and also, at the time of registration of the impugned FIR, the age of the prosecutrix was found to be around 23 years. Counsel submits that under these circumstances, the impugned FIR be quashed.

5. *Per contra*, learned Asstt. Govt. Advocate opposed the prayer and submits that after thorough investigation in the present matter, *prima facie* case was found to be proved against the petitioner, therefore charge-sheet has already been submitted against him for the offences punishable under Sections 376(3), 450, 363, 366, 342, 376(2)(n), 506 IPC and Sections 5/6 and 7/8 of the POCSO Act, before the concerned Court on 05.09.2023. Hence, interference of this Court is not warranted.

6. Heard and considered the submissions made at Bar and perused the material available on record.
7. The fact in dispute is whether the prosecution was minor or major at the time of commission of the alleged incident.
8. The correctness of the allegations levelled against the petitioner cannot be examined or adjudged by this Court while exercising its inherent jurisdiction under Section 482 Cr.P.C. This Court cannot conduct fishing and roving inquiry to find out the truth behind the allegations levelled against the petitioner.
9. Looking to the fact that charge-sheet has already been submitted against the petitioner before the concerned Court way back in the month of September, 2023 and the petitioner is facing trial before the Court of Special Judge, POCSO Cases, Sawaimadhopur, this Court deems it just and proper to dispose of the instant petition, granting liberty to the petitioner to take all available defences at the appropriate stage of the trial before the Trial Court.
10. At this stage, learned counsel for the petitioner apprised this Court that charges were framed against the petitioner on 24.03.2024 and thereafter, statements of only two witnesses have been recorded. The prosecutrix is not turning up for recording of her statements and she is causing delay in the case pending against the petitioner.
11. Considering the above factual aspect of the matter, learned Special Judge, POCSO Cases, Sawaimadhopur is directed to send a DO letter to the Superintendent of Police, Sawaimadhopur directing him to produce the prosecutrix before the Trial Court on the next date fixed by the Trial Court, or on the subsequent date

and all possible endeavours be made by him for producing all other relevant witnesses before the Trial Court in time on the dates fixed by the Trial Court, so that the fundamental right of the petitioner for speedy trial guaranteed under Article 21 of the Constitution be not violated.

12. With the aforesaid observations, the instant criminal misc. petition stands disposed of. Stay application as well as all pending applications, if any, stand disposed of.

(ANOOP KUMAR DHAND),J