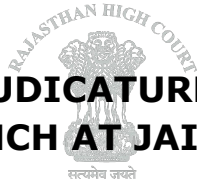


**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



S.B. Criminal Miscellaneous (Petition) No. 1895/2021

1. Ramdayal S/o Basanti Lal, R/o Village Bagri, P.s. Mandawari District Dausa.
2. Balbir S/o Harkesh Meena, R/o Village Bagri, P.s. Mandawari District Dausa.
3. Rakesh S/o Meetha Lal, R/o Village Bagri, P.s. Mandawari District Dausa.
4. Karan S/o Ramji Lal Sharma, R/o Village Birajpura, Tehsil Bassi, District Jaipur.

-----Petitioners

Versus

1. State Of Rajasthan, Through Public Prosecutor.
2. Parvati Devi W/o Jagdish Bairwa, R/o Village Bagri, P.s. Mandawari District Dausa.

-----Respondents

For Petitioner(s)	:	Mr. Ravindra Kumar Paliwal
For Respondent(s)	:	Mr. Jitendra Singh Rathore, PP Mr. Dilip, Dy.SP, Lalsot, Dausa

JUSTICE ANOOP KUMAR DHAND

Order

04/05/2026

1. By way of filing the instant criminal miscellaneous petition, a challenge has been led to the proceedings arising out of the impugned FIR No.178/2020, registered with the Police Station Mandawari, District Dausa for the offences punishable under Sections 363, 376D IPC and Section 3/4 of the POCSO Act.
2. Learned counsel for the petitioner submits that the prosecutrix, in her statements recorded under Sections 161 and 164 Cr.P.C., has not levelled any allegations against the accused

alleging that they were also involved in the incident of rape. He further submits that in spite of the above, investigation has been kept pending against the petitioners under Section 173(8) Cr.P.C. Counsel submits that charge-sheet was submitted against the co-accused persons who have been acquitted, hence under these circumstances, interference of this Court is warranted.

3. *Per contra*, learned Public Prosecutor opposed the prayer.

4. On the last date when the case was listed before this Court, a similar argument was raised by the counsel for the petitioners. Hence, under these circumstances, this Court deemed it just and proper to instruct the investigating officer to remain present before this Court along with case diary and progress report of the investigation conducted so far in the impugned FIR.

5. Pursuant to the aforesaid order, Mr. Dilip, Dy.SP, Lalsot, Dausa has put appearance in person and has brought the case diary and factual report of investigation conducted so far along with him. He submits that during the course of investigation, this fact has come on record from the DVR of CCTV fixed at the place of occurrence, that the petitioners were present there and were walking around the place of the alleged incident. They were in conspiracy with the co-accused persons and they have not informed the Police about the alleged incident. Hence, they were involved in the conspiracy of rape committed upon the victim. He submits that even during the course of investigation, when the accused who were charge-sheeted were interrogated, this evidence has come against the petitioners. Hence under these circumstances, the Investigating Agency is of the view that the petitioners are *prima facie* involved in the offence of conspiracy.

6. Heard and considered the submissions made at the Bar and perused the material available on the record.

7. Perusal of the record indicates that incident of rape has been committed by the co-accused persons upon the prosecutrix, who is a minor, deaf and dumb. This fact is not in dispute that when her statements were recorded under section 161 and 164 Cr.P.C., she has not levelled any allegation of rape against the petitioners. But this fact has come on the record that the petitioners were present at the place of occurrence and their presence has been recorded in the CCTV fixed at the place of occurrence. Their involvement has also been found to be proved by the Investigating Officer when interrogation was done with the co-accused persons, who caused the incident.

8. Whether the petitioners are involved in the incident or not, this is a disputed fact which cannot be examined/adjudicated by this Court by conducting a fishing and roving inquiry. Certainly this task has been assigned to the Investigating Officer.

9. Considering overall facts and circumstances of the case, this Court is not inclined to entertain the instant petition for accepting the prayer made by the petitioners.

10. Accordingly, the instant criminal miscellaneous petition stands dismissed. The stay application and all pending applications, if any, also stand dismissed.

(ANOOP KUMAR DHAND),J