

RAJASTHAN HIGH COURT

सत्यमेव जयते

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Criminal Miscellaneous (Petition) No. 1541/2023

Manoj Kumar Soni S/o Shri Shankar Lal Soni, Aged About 42 Years, R/o Shekhawat Colony, Behind The Ram Leela Ground, Ward No. 21, P.s. Kotwali Sikar, District Sikar (Rajasthan).

-----Petitioner

Versus

1.

State Of Rajasthan, Through P.p.
2.

Victim

-----Respondents

Connected With

S.B. Criminal Revision Petition No. 1976/2023

Manoj Kumar Soni S/o Shankar Lal Soni, Aged About 43 Years, R/o Shekhawat Colony, Behind The Ram Leela Ground, Ward No. 21, P.s. Kotwali Sikar, District Sikar (Rajasthan)

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-----Respondents

For Petitioner(s)	:	Mr. Vipin Sharma with Mr. Amit Kumar
For Respondent(s)	:	Mr. Jitendra Singh Rathore, PP with Mr. Gaurav Gupta, Asstt.GA and Mr. Sapan Soni Mr. Chhatrasal Singh Tanwar

JUSTICE ANOOP KUMAR DHAND

Order

20/05/2026

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. Since common question of law and facts are involved in both these instant petitions, hence with the consent of counsel for the parties, arguments have been jointly heard and both these petitions are being decided by this common order.

4. S.B. Criminal Miscellaneous (Petition) No.1541/2023 has been submitted by the petitioner with the prayer to quash the proceedings arising out the impugned FIR No.476/2022, registered with Police Station Kotwali Sikar, District Sikar for the offences punishable under Sections 354, 420, 506 IPC along with charge-sheet No.01/2022 filed in the aforesaid FIR for the offences under Sections 354, 420, 506 and 376(2)(n) IPC. While in S.B. Criminal Revision Petition No. 1976/2023, a challenge has been led to the impugned order dated 07.12.2023, passed by the Additional Sessions Judge, No.4, Sikar in Sessions Case No.03/2023, by which charges have been framed against the petitioner for the offences under Sections 420 and 506 and 376(2)(n) IPC.

5. Since this Court is not having roster of hearing the criminal revision petition filed under Section 397 Cr.P.C against the order of framing of charge, but looking to the fact that the controversy involved in both the petitions is identical and similar, this Court directed the Registrar (Judicial) to place both the matters before Hon'ble The Acting Chief Justice under Administrative side seeking his directions for listing and hearing of these matters by a particular Bench.

6. In pursuance of the aforesaid, Hon'ble The Acting Chief Justice has assigned these two matter to this Bench for hearing of both the matters.

7. Learned counsel for the petitioner submits that the prosecutrix "S" is a major lady aged more than 40 years and she was in a consensual relationship with the petitioner. Counsel submits that though the petitioner and prosecutrix were already separately married, however owing to certain dispute with their respective spouse, it was agreed between the parties that both of them will reside together as husband and wife and a document was also executed in this regard on a stamp paper on 02.03.2017. Counsel submits that certain terms and conditions were mentioned in the said affidavit. Subsequently, the parties dissolved their aforesaid marriage by executing a written divorce by mutual consent on 08.07.2022. Counsel submits that subsequently prosecutrix has lodged the impugned FIR based on false and vague allegations. Counsel submits that the prosecutrix has resided with the petitioner under the capacity of wife of the petitioner. Hence, under these circumstances, the alleged offence is not made out. In-spite of the above, charge-sheet has been

submitted against the petitioner and thereafter, charges have also been framed. Hence, continuation of the proceedings against the petitioner tantamounts to abuse of process of law.

8. In support of his contentions, counsel has placed reliance upon the following judgments passed by the Hon'ble Apex Court:

A. **Naim Ahamed vs. State (NCT of Delhi)** reported in **(2023) 15 SCC 385**.

B. **Mahesh Damu Khare vs. State of Maharashtra and Another** reported in **2024 SCC OnLine SC 3471**.

C. **Pramod Suryabhan Pawar vs. State of Maharashtra and Anr.** reported in **(2019) 9 SCC 608**.

D. **Dr. Dhruvaram Mulridhar Sonar vs. State of Maharashtra and Ors.** reported in **(2019) 18 SCC 191**.

E. **Deepak Gulati vs. State of Haryana** reported in **(2013) 7 SCC 675**.

F. **Union of India vs. Prafulla Kumar Samal and Anr.** reported in **(1979) 3 SCC 4**.

G. **P. Vijayan v. State of Kerala and Anr.** reported in **(2010) 2 SCC 398**.

H. **Sajjan Kumar vs. Centra Bureau of Investigation** reported in **(2010) 9 SCC 368**.

I. **State of Haryana and Ors. vs. Bhajan Lal and Ors.** reported in **AIR 1992 SC 604**.

9. *Per contra*, counsel appearing on behalf of the complainant as well as the Public Prosecutor opposed the prayer and submitted that both the petitioner and the prosecutrix are already separately married to their respective spouses and their respective marriages have not been dissolved by the competent Court of law. Hence, under these circumstances, both of them cannot perform marriage

and subsequently dissolve their marriage by mutual consent by executing any document in this regard.

10. Learned counsel for the complainant submits that the affidavit dated 02.03.2017 does not bear the signatures of the prosecutrix, rather this document has been executed by the petitioner himself. Counsel submits that in-fact, the prosecutrix has not executed any document for dissolving their marriage by mutual consent, rather her signatures were taken forcefully under coercion. Counsel submits that the prosecutrix was exploited by the petitioner and therefore, the impugned FIR has been registered against him.

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

12. Rival submissions have been made by counsels appearing on behalf of the petitioner as well as the prosecutrix, with regard to execution of certain documents of their marriage and dissolution of their marriage by mutual consent.

13. It is settled proposition of law that the disputed documents cannot be examined and appreciated by this Court while exercising its inherent powers contained under Section 482 Cr.P.C. Certainly, this task has been assigned to the learned Trial Judge, where the trial has proceeded. This Court is not going into the controversy as to whether the petitioner and the prosecutrix could live together in a relationship as husband and wife or not. This fact would be appreciated by the Trial Court on the basis of evidence led by both sides at the appropriate stage of the trial.

14. With the aforesaid observations, the instant criminal misc. petition as well as the instant criminal revision petition, both stand

disposed of. The stay applications and all pending applications, if any, also stand disposed of.

15. The petitioner would be at liberty to take all available defence at the appropriate stage of the trial before the Trial Court.

(ANOOP KUMAR DHAND),J

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