

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

S.B. Criminal Miscellaneous (Petition) No. 2926/2021

1. Laxman Gurjar S/o Ram Narayan, Resident Of Village Jakholi Khurd, P.S. Basoli, District Bundi (Raj).
2. Dharamraj Gurjar S/o Ram Narayan, Resident Of Village Jakholi Khurd, P.S. Basoli, District Bundi (Raj).
3. Harlal Gurjar S/o Ramdev Gurjar, Resident Of Village Jakholi Khurd, P.S. Basoli, District Bundi (Raj).
4. Chouthmal Gurjar S/o Rampal, Resident Of Village Jakholi Khurd, P.S. Basoli, District Bundi (Raj).
5. Ramnarayan S/o Gopal, Resident Of Village Jakholi Khurd, P.s. Basoli, District Bundi (Raj).
6. Ramdev Gurjar S/o Ramdev, Resident Of Village Jakholi Khurd, P.S. Basoli, District Bundi (Raj).
7. Gattu Bai W/o Ram Narayan, Resident Of Village Jakholi Khurd, P.S. Basoli, District Bundi (Raj).

----Petitioners

Versus

State Of Rajasthan, Through P.P.

Mosmi Bai Gurjar D/O Shri Ram Gurjar R/o KherKhata P.S Basoli
District Bundi (Rajasthan)

----Respondent

For Petitioner(s)	:	Mr. Govind Lal Choudhary
For Respondent(s)	:	Mr. Riyasat Ali, PP Ms. Saroj Kumari Trivedi

HON'BLE MR. JUSTICE SATISH KUMAR SHARMA

Order

06/09/2021

1. This Petition has been filed under Section 482 Cr.P.C. for quashing of FIR No. 05/2021 registered at Police Station Basoli District Bundi for offences under Sections 143, 342, 366 & 376 IPC.

2. Heard learned counsel for both the sides and perused the material made available on record.

3. Learned counsel for the petitioners submits that the present FIR has been lodged by the wife of the petitioner No.1 for the offence of rape which is not maintainable and permissible under law. This is a case of clear abuse of process. The impugned FIR deserves to be quashed. Meanwhile further investigation in the matter should be stayed and the petitioner should be given interim protection from any sort of coercive action.

4. Ms. Saroj Kumari Trivedi who has entered appearance on behalf of private respondent submits that after dissolution of marriage with the present petitioner, the victim has performed marriage with another person. The petition has been filed with false and concocted allegation which deserves to be dismissed.

5. Learned Public Prosecutor has opposed the petition.

6. Heard. Considered.

7. Looking to the contents of impugned FIR constituting commission of cognizable offence, this court, in view of the recent verdict of the Hon'ble Supreme Court in **M/s. Neeharika Infrastructure Pvt. Ltd. Vs. State of Maharashtra [(2021) SCC Online SC 315]**, does not find any ground to quash the FIR at this juncture or to stay further investigation in the matter. The grounds raised by the petitioner/s are subject matter of investigation, which is in the exclusive domain of Investigating Agency and the courts are not supposed to interfere with the investigation. However, it is imperative on its part to conduct the investigation in fair and impartial manner strictly in accordance with law, without being influenced by any extraneous

consideration. Therefore, keeping in view the facts and circumstances of the case and to enable the petitioner to put forth his case/ stand before the Investigating Officer, but without expressing any opinion on merits, it is directed as under:-

- (i) The petitioners shall appear before the Investigating Officer and may submit representation, if any, for consideration as per law, within seven days from today. Till then the petitioners shall not be arrested.
- (ii) Thereafter, the investigating Officer shall be free to arrest the petitioners, if required, subject to bail order, if any.
- (iii) Needless to say that in case of apprehension of arrest, the petitioners may seek anticipatory bail, if so advised.
- (iv) The Investigation shall be conducted in fair manner strictly in accordance with law without being influenced by any extraneous consideration.
- (v) After investigation, police report (Challan/ Final Report) shall be filed before the concerned court to be dealt with as per law.
- (vi) Latest status report of investigation shall be produced before this court by the next date positively.

The matter be listed on 25.10.2021.

(SATISH KUMAR SHARMA),J