

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



S.B. Criminal Miscellaneous (Petition) No. 3653/2021

Roop Singh Son Of Lohre, Resident Of Village Ratanapura, Tehsil Sapotra, District Karauli (Rajasthan), Presently Posted As Inspector, Service Tax Commissionerate, Audit-I, Zone Tamilnadu, Chennai.

----Accused Petitioner

Versus

1. State Of Rajasthan, Through P.P.
2. Victim daughter of Babu Lal, Resident of Village Semarda, Police Station, Sapotra, District Karauli (Rajasthan)

----Respondents

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| For Petitioner(s) | : | Mr. Rajneesh Gupta with<br>Mr. Rahul Sharma             |
| For Respondent(s) | : | Mr. Jitendra Singh Rathore, PP<br>Mr. Deen Dayal Sharma |

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**JUSTICE ANOOP KUMAR DHAND**

**Order**

**23/04/2026**

1. By way of filing the instant criminal miscellaneous petition, a prayer has been made for quashing of the FIR No. 139/2021, registered at Police Station Sapotra, District Karauli for the offences punishable under Sections 376 & 420 IPC.
2. Learned Counsel for the petitioner submits that the prosecutrix is a major married lady and she was in relationship with the petitioner since 2011. He further submits that the marriage of the prosecutrix was solemnized with one Amitabh. In spite of the above, she remained in a relationship with the petitioner for a period of more than a decade. Learned Counsel submits that the petitioner was gainfully employed in government

job and was posted at Chennai. He used to transfer various amounts of money in the account of the prosecutrix on many occasions. Learned counsel submits that marriage of the petitioner was solemnized on 30.04.2021. The instant false FIR has been lodged by the prosecutrix against the petitioner on 1.05.2021 with the allegation that the petitioner promised to marry her and on the pretext of promise of marriage, physical relations were developed between the parties. Counsel further submits that when the prosecutrix was already married, there was no question of such a promise being made by the petitioner. Learned Counsel further submits that the Hon'ble Apex Court in the case of **Anmol Bhagwan Nehul Vs. State of Maharashtra & Anr.** reported in **(2025) SCC online SC 1230** has held that if any physical relationship has been developed between the parties on the assurance of marriage and the prosecutrix was already married to someone else, then under such circumstances, no offence is made out against the accused. He has also placed reliance upon the judgments passed by the Hon'ble Apex Court in the **Prashant Bharti Vs. NCT of Delhi**, reported in **(2013) 9 SCC 293** and **Pramod Suryabhan Pawar Vs. State of Maharashtra & Anr.** reported in **(2019) 9 SCC 608** along with the judgment passed by the co-ordinate bench of this Court in the case of **Siyaram Vs State of Raj. in S.B. Criminal Misc. Petition no. 152/2022** decided on 19.10.2022. Learned counsel submits that under these circumstances, the impugned FIR and the proceedings arising out of the same be quashed and set aside.

3. Per-contra, learned public prosecutor as well as counsel appearing on behalf of the complainant-respondent opposed the

arguments made by the learned counsel for the petitioner and submitted that this fact is true that the prosecutrix is a married lady and her marriage was solemnized with one Amitabh. Thereafter, social divorce took place between the prosecutrix and her first husband on 10.08.2019 and a document was also executed between the said parties in this regard before the local Panchayat.

4. Learned Counsel further submits that the prosecutrix was under the belief that the petitioner will perform marriage with her and hence, their relationship continued even during and after her marriage with her first husband. Thereafter, the petitioner performed marriage with some other lady hence under these circumstances, the alleged offence is made out against the petitioner and interference of this court is not warranted and the instant petition is liable to be rejected.

5. In rebuttal, learned counsel on behalf of the petitioner submits that no decree of dissolution of marriage was obtained by the prosecutrix from the competent civil court and hence in these circumstances, the social divorce between the prosecutrix and her first husband has no legal value in the eyes of law. Counsel further submits that in between the years 2011-2019 the prosecutrix remained as wife of her first husband Amitabh. Hence, interference of this court is warranted

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

7. Perusal of the allegations levelled in the impugned FIR reveal commission of a cognizable offence. Whether any promise to perform marriage was made by the petitioner to the prosecutrix

or not, and whether their physical relationships continued on the pretext of such promise or not? The correctness of such allegations cannot be examined or adjudicated by this court at this stage by conducting a fishing and roving inquiry. This court cannot adjudicate the fact whether the aforesaid social decree of divorce passed by the Panchayat is valid or not, while deciding the instant petition. Certainly, the allegations levelled in the FIR are required to be verified by the investigating agency who has thoroughly investigated the matter from all four corners and submitted charge-sheet against the petitioner.

8. Hence, under these circumstances, this Court is of the considered view that the petitioner can take all the grounds which have been taken before this Court and all available defences at the appropriate stage before the Trial Court.

9. With the aforesaid observations, the instant petition stands disposed of.

(ANOOP KUMAR DHAND),J