

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



S.B. Criminal Miscellaneous (Petition) No.6747/2017

Smt. Hema W/o Shri Om Prakash, D/o Shri Kanhaiya Lal, R/o Village Kalyanpura, Tehsil Ramgarh Pachwara, District Dausa, At Present R/o Plot No.01, Ramnagar Colony, Opposite Chanda Hotel, Lalsot Road, Dausa, Raj.

----Petitioner

Versus

1. State Of Rajasthan Through Pp.
2. Om Prakash S/o Jagdish, R/o Village Ghata, Police Station Kanota, Tehsil Bassi, District Jaipur, At Present Uco Bank, Branch Arera Colony, Bhopal, Mp.

----Respondents

For Petitioner(s)	:	Mr. Shashi Kant Saini
For Respondent(s)	:	Mr. Jitendra Singh Rathore, PP with Mr. Anirudh Singh Ms. Neha Goyal

JUSTICE ANOOP KUMAR DHAND

Order

24/04/2026

1. By way of filing the instant criminal misc. petition, a challenge has been led to the impugned order dated 02.11.2017, passed by the Sessions Judge, Dausa in Revision Petition No.108/2017, by which the order dated 04.03.2017, passed by the Chief Judicial Magistrate, Dausa in Criminal Case No.243/2017 has been quashed and set aside and the matter has been remanded to the Chief Judicial Magistrate, Dausa along-with a direction to hear the complaint and pass fresh orders thereon.
2. Learned counsel for the petitioner submits that on a complaint submitted by the petitioner against the accused-

respondent No.2 and co-accused Ruchika, cognizance was taken against them under Section 494 and 120B IPC as the accused-respondent No.2-Om Prakash performed second marriage with co-accused Ruchika during subsistence of his first marriage with the petitioner. Since the second marriage was solemnised without seeking dissolution decree against the first marriage from the competent court of law, therefore, cognizance was taken against the accused-respondent and the co-accused-Ruchika.

3. Learned counsel for the petitioner further submits that aggrieved by the aforesaid, the accused-respondent No.2 submitted a revision petition before the Revisional Court i.e. Sessions Judge, Dausa and the same has been allowed vide impugned order dated 02.11.2017 without passing any reasoned and cogent order and the order dated 04.03.2017 passed by the learned Magistrate has been quashed and set-aside and the matter has been remitted to the Chief Judicial Magistrate to decide it afresh. Learned counsel submits that unless and until, a reasoned & cogent order is passed for setting aside the order passed by the Magistrate, the impugned order passed by the Revisional Court is not sustainable and the same is liable to be quashed and set-aside.

4. *Per contra*, learned counsel appearing on behalf of the accused-respondent opposed the prayer and submitted that several judgments have been referred in the impugned order dated 02.11.2017 passed by the Revisional Court and the same were not taken into account by the learned Magistrate at the time of taking cognizance vide order dated 04.03.2017. Hence, the impugned order has been rightly passed by the Revisional Court

by quashing the order passed by the Chief Judicial Magistrate, Dausa and, therefore, interference of this Court is not warranted and the instant petition is liable to be rejected.

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

6. Perusal of the record indicates that upon a complaint submitted by the petitioner, cognizance has been taken against the accused-respondent Om Prakash along-with co-accused Ruchika for the offences punishable under Sections 494 and 120B IPC vide order dated 04.03.2017.

7. It appears that aggrieved by the aforesaid order, the accused-respondent Om Prakash has submitted a Revision Petition before the Sessions Judge, Dausa citing certain judgments passed by the co-ordinate Benches of this Court and the Hon'ble Apex Court. Relying upon the aforesaid judgments, the order impugned has been passed by the Revisional Court holding that learned Magistrate has not taken into account the said judgments.

8. It is settled proposition of law that the cognizance order is passed by the learned Magistrate, on the basis of the material and the evidence produced by the complainant, at the stage of taking cognizance and the accused is not required to be heard as he has no *locus standi* to putforth his case, prior to taking cognizance against him.

9. If the respondent was aggrieved by the order of cognizance in light of the judgment passed by the Hon'ble Apex Court in the case of **Dr. Surajmant Stelia Kujur Vs. Durga Charan Hansdah & Anr.** reported in **AIR 2001 SC 938** and the judgment of the Kerala High Court in the case of **Venugopal K**

Vs. Union of India & Ors. reported in **2015 SCC OnLine Ker 798**, then these arguments could have been raised and the Revisional Court could have decided the issue as to whether the order of cognizance was sustainable or not.

10. In the considered opinion of this Court, instead of remitting the matter to the learned Magistrate to decide the matter afresh in light of the aforesaid judgments, so relied upon by the accused-respondent, the Revisional Court ought to have decided the Revision Petition on its merits, by passing a cogent and reasoned order, after providing due opportunity of hearing to both sides.

11. On this count alone, the instant criminal misc. petition stands allowed. The impugned order dated 02.11.2017 passed by the Revisional Court is liable to be and is hereby quashed and set-aside and the matter is remitted to the Revisional Court to decide the matter afresh on its merits. The parties are directed to appear before the Revisional Court on 12.05.2026.

12. Stay application as well as all pending applications, if any, stand disposed of.

(ANOOP KUMAR DHAND),J