

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Criminal Miscellaneous (Petition) No.2861/2015

Sulabh Consul son of Shri Gajendra Consul, resident of 2-GA-28
Manumarg Housing Board Alwar PS Kotwali Alwar, District Alwar.

-----Petitioner

Versus

1.State Of Rajasthan through the Public Prosecutor.

2. Shri Manoj Sharma son of Shri Babulal Sharma, resident of
Matra Chaya Shyam Gali Behind SBI Arya Nagar PS Kotwali,
Alwar.

-----Respondents

For Petitioner(s) : Mr. Manish Gupta

For Respondent(s) : Mr. Narendra Singh Dhakar, PP

JUSTICE ANOOP KUMAR DHAND
Order

19/03/2026

1. By way of filing the instant criminal misc. petition, a challenge has been led to the impugned FIR No.163/2015 registered with Police Station Udyog Nagar, Alwar for the offences under Sections 420 and 406 IPC.

2. Learned counsel for the petitioner submits that as per the allegations levelled in the impugned FIR, the instant case is a case of money recovery, for which the complainant could have filed a civil suit, but in order to give it the colour of criminal case, the instant impugned FIR has been registered. Counsel submits that the petitioner and the complainant are business partners and owing to a money dispute between them, the instant case has been registered against the petitioner, which is of civil nature, for which FIR cannot be registered. In support of his contentions, counsel has placed reliance upon the judgment passed by the Hon'ble Apex Court in the case of **Indian Oil Corpn. vs. NEPC**

India Ltd. and Ors. reported in **2006 (6) SCC 736**. Counsel submits that under these circumstances, interference of this Court is warranted.

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

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

5. Perusal of the allegations levelled in the impugned FIR reveal commission of a cognizable offence. Correctness of the allegations levelled in the impugned FIR cannot be adjudicated by this Court while exercising its inherent jurisdiction contained under Section 482 Cr.P.C. Certainly this task has been assigned to the Investigating Agency.

6. This Court deems it just and proper to dispose of the instant petition granting liberty to the petitioner to submit a representation along with documents in support of his contentions before the Investigating Officer.

7. In case, such representation is submitted by the petitioner before the Investigating Officer, who shall examine the same and if he comes to the conclusion that any cognizable offence is made out against the petitioner, then before proceeding further in the matter, he would issue a notice under Section 41-A Cr.P.C. [35(3) of the BNSS] to the petitioner and submit the result/conclusion report under Section 173 Cr.P.C. before the competent court of law.

8. With the aforesaid observations, the instant criminal misc. petition stands disposed of. The stay application and all pending applications, if any, also stand disposed of.

(ANOOP KUMAR DHAND),J