

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Criminal Miscellaneous (Petition) No.6393/2016

Rajesh Kumar Son Of Shri Nandkishore, R/o Village Panlawa
Tehsil Laxmangarh District Sikar.

-----Petitioner

Versus

1. The State Of Rajasthan Through P.P.
2. Smt. Bhanwari Devi Wife Of Shri Mahipal, R/o Village Panlawa Tehsil Laxmangarh District Sikar.

-----Respondents

For Petitioner(s)	:	Mr. Dhruv Atri & Mr. Mahaveer Singh for Mr. Harendra Singh Sinsinswar
For Respondent(s)	:	Mr. Jitendra Singh Rathore, PP with Mr. Shubham Sain
		Mr. Avinash Fenin & Ms. Payal Goyal for Mr. Arun Singh Shekhawat

JUSTICE ANOOP KUMAR DHAND

Order

20/04/2026

1. By way of filing the instant criminal misc. petition, a challenge has been led to the impugned order dated 25.01.2016 passed by the court of the Additional Chief Judicial Magistrate, Laxmangarh, District Sikar by which cognizance has been taken against the petitioner along-with the co-accused Ramniwas for the offences under Sections 452 and 354/34 IPC.
2. Aggrieved by the aforesaid order, the petitioner submitted a revision petition before the Court of the Sessions Judge, Sikar, however, the same was rejected vide order dated 20.09.2016 and

the order dated 25.01.2016 passed by the Magistrate has been upheld.

3. Learned counsel for the petitioner submits that as per the allegations levelled by the witnesses against the petitioner and the co-accused Ramniwas by the victim, the petitioner along-with the co-accused Ramniwas entered into the house of the victim, the petitioner caught her and the co-accused Ramniwas torn off her clothes and attempted to outrage her modesty.

4. Learned counsel submits that grave allegations have been levelled against the co-accused Ramniwas that he torn off the clothes of the victim and attempted to outrage her modesty, while allegations levelled against the petitioner indicate that he caught the victim. He further submits that the co-accused Ramniwas submitted Criminal Revision Petition No.38/2016 against the order of cognizance dated 25.01.2016 before the court of Additional Sessions Judge No.3, Laxmangarh, District Sikar and the same was allowed and the order of cognizance has been quashed vide order dated 22.06.2018. He further submits that aggrieved by the aforesaid order, the complainant-respondent submitted S.B. Criminal Misc. Petition No.4355/2018 before this Court and the same was rejected by this Court vide order dated 29.10.2018, hence, the order passed by the Revisional Court has attained finality. Learned counsel submits that the case of the petitioner is at better footing in comparison to the co-accused Ramniwas, hence, the petitioner also deserves same indulgence.

5. *Per contra*, learned Public Prosecutor as well as learned counsel appearing on behalf of the complainant opposed the arguments raised by learned counsel for the petitioner, but both

are not in a position to controvert the submissions, so made by counsel for the petitioner.

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

7. Perusal of the record indicates that an FIR No.82/2013 was registered by the victim i.e. the respondent No.2 against the petitioner and the co-accused Ramniwas, which resulted in Final Report (Negative) against which a protest petition was submitted and the arguments were heard. Learned Magistrate vide order dated 25.01.2016 took cognizance against both i.e. the co-accused-Ramniwas and the petitioner under Sections 452 and 354/34 IPC.

8. The order of cognizance was assailed by the co-accused Ramniwas before the court of the Additional Sessions Judge No.3, Laxmangarh District Sikar by way of filing Revision Petition and the same was allowed vide order dated 22.06.2018 and the order of cognizance qua the co-accused Ramniwas was quashed and set-aside.

9. The aforesaid order dated 22.06.2018 was assailed by the complainant-respondent before this Court by way of filing S.B. Criminal Misc. Petition No.4355/2018 and the same was rejected by this Court vide order dated 29.10.2018 with the aforesaid observations:-

“Instant petition has been preferred under Section 482 Cr.P.C. to assail the order dated 22.06.2018 passed by the Court of Additional Sessions Judge, No.3 Camp at Laxmangarh, District Sikar, whereby the said Court had set aside the order of cognizance dated 25.01.2016 passed by the Court of Additional Chief Judicial Magistrate, Laxmangarh District Sikar.

The petitioner has alleged that on 23.02.2013 in the afternoon at about 12:00/01:00 P.M. accused – Ramniwas son of Jhabar Singh and Rajesh Kumar son of Nandkishore trespassed into her house, and Ramniwas had torn her clothes.

The trial Court, taking statements of the petitioner and other witnesses, took cognizance of offences punishable under Sections 452 and 354/34 I.P.C.

The revisional Court below held that Amichand witness is areal brother of the complainant, Arun and Surendra are real younger brothers of the husband of the complainant, whereas Indraj is father-in-law of the complainant. The Court held that there are contradictions in the statements of the witnesses. The Court further came to a conclusion that the Investigating Agency has submitted a Final Report in negative form by holding that there is no evidence regarding the injuries caused.

There is no corroborative evidence available to support the allegations as the torn clothes were not handed over to the Investigating Officer.

The view formulated by the Court below is one view, which is possible on the facts and circumstances of the case.

The bald and oral assertions of complainant have neither been corroborated by medical evidence nor by seizure of clothes. This Court while exercising jurisdiction under Section 482 Cr.P.C. can not do reappraisal and re-appreciation of evidence. Furthermore, the view formulated by the revisional court below cannot be termed perverse.

Hence, no interference is warranted.

Consequently, the present petition, being devoid of merits is dismissed.”

10. Perusal of the impugned orders and the material available on the record indicate that the allegations levelled against the petitioner that he caught the victim, while the allegations levelled against the co-accused Ramniwas were that he torn off the clothes of the victim, but his order of cognizance has been quashed by the Revisional Court and the same has been upheld by this Court.

11. The case of the petitioner is at better footing, hence, he is also entitled to get the similar treatment, which was granted in favour of the co-accused Ramniwas.

12. Considering the overall facts and circumstances of the case, the instant criminal misc. petition deserves to be allowed and the same is allowed. The impugned order dated 25.01.2016 passed by the Court of the Additional Chief Judicial Magistrate stands quashed and set-aside. So also, the consequential order dated 20.09.2016 passed by the learned Sessions Judge also stands quashed and set-aside.

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

(ANOOP KUMAR DHAND),J