

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Criminal Writ Petition No. 431/2022

Jitendra Kumar Meena Son Of Shri Ram Sahay Meena, Aged About 45 Years, Resident Of Vill. And Post Katkad, Teh. Hindaun City, Distt. Karauli, Rajasthan At Present Posted As Assistant Prosecution Officer, Gram Nyayalaya, Gangapur City, District Sawai Madhopur

-----Petitioner

Versus

1. State Of Rajasthan, Through Director, Prosecution Department, Government Secretariat Rajasthan Jaipur.
2. The Special Judge, POCSO Court, Sawai Madhopur.
3. District Collector, Sawai Madhopur.
4. Anil Jain, Special P.P. POCSO Court, Sawai Madhopur.

-----Respondents

For Petitioner(s) : Mr. D.K. Dixit

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

JUSTICE ANOOP KUMAR DHAND

Order

04/05/2026

1. By way of filing the instant criminal writ petition, a challenge has been led to the impugned order dated 07.07.2022, passed by the Judge, Special Court (POCSO Act) Cases, Sawaimadhopur, by which directions have been issued to the District Collector, Sawaimadhopur for taking disciplinary action against the petitioner.

2. Learned counsel for the petitioner submits that the petitioner is an Assistant Prosecution Officer posted before the Special Court (POCSO Act) cases. The fact of a charge-sheet being filed against

the accused before the Gram Nayaylaya, Gangapur City was brought into the notice of the petitioner by the concerned Police Officer. Counsel submits that on perusal of the charge-sheet, the petitioner gave his opinion that looking to the allegations levelled against the accused, the FIR should have been registered under the POCSO Act also, in addition to the offences punishable under the IPC. Counsel submits that while hearing the arguments on bail application, submitted by the accused before the Special Judge, POCSO cases, the petitioner made certain comments upon the investigation conducted by the Investigating Agency. But at the same time, an order has been passed stating that the conduct of the petitioner is also suspicious, as no brief note was submitted by the petitioner to the Investigating Officer regarding submission of correct charge-sheet. Counsel submits that before passing such an order, neither any notice nor any opportunity of hearing was provided to the petitioner.

3. Lastly, he argued that even as per the circular/notification issued by the Department of Prosecution, any brief note written by the prosecution officer cannot be read or placed before the Court along with the case diary, and whenever a case diary is placed before the Court, such brief notes are required to be detached. Under these circumstances, the order impugned is not sustainable in the eyes of law and the same is liable to be quashed and set-aside.

4. *Per contra*, learned Public Prosecutor opposes the prayer, but he is not in a position to controvert the submissions made by counsel for the petitioner.

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

6. Perusal of the impugned order dated 07.07.2022 indicates that when charge-sheet was submitted against the accused in a Criminal Case under Sections 341, 323 and 504 IPC, the Court was of the view that charges under Section 354 IPC and Section 7/8 of the POCSO Act should have been added, but the same were not added. Considering this material aspect of the matter seriously, the learned Special Court (POCSO Act), Sawaimadhopur passed the order impugned wherein conduct of the petitioner was also found to be doubtful. Hence, a direction has been issued to the District Collector for taking disciplinary action against the petitioner.

7. In the considered opinion of this Court, before passing any adverse order against any person, a notice is required to be given and an opportunity of hearing is also required to be given. Not granting such opportunity amounts to violation of the principles of natural justice.

8. In the instant case also, the right of the petitioner, to be heard before passing the order impugned, has been violated. On this count alone, the order impugned qua the petitioner is not sustainable in the eyes of law and the same is liable to be and is hereby quashed and set-aside.

9. The matter is remitted to the Special Court (POCSO Act), Sawaimadhopur to pass fresh order after providing due opportunity of hearing to the petitioner. In case such notice is issued to the petitioner, he can submit his reply along with documents, upon which he wants to place reliance.

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

(ANOOP KUMAR DHAND),J

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