

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Criminal Miscellaneous (Petition) No. 5432/2024

Mr. Deepesh Kumar Meena S/o Hari Singh,

-----Petitioner

Versus

State Of Rajasthan

-----Respondent

For Petitioner(s)	:	Mr. Rajeev Surana, Sr. Adv. assisted by Mr. Sankalp Sogani, Ms. Muskan Verma & Mr. Umang Jain
For Respondent(s)	:	Mr. Rishi Raj Singh Rathore, PP

HON'BLE MR. JUSTICE SAMEER JAIN

Order

23/08/2024

Learned Senior Counsel Mr. Surana appearing on behalf of the petitioners submitted that petitioner No.1 and 2 are government servant(s) and the other petitioners are individuals preparing for several competitive examinations. It is further submitted that the petitioner's name were not included in the initial charge-sheet dated 13.03.2020. Howsoever, acting *ultra vires* to the jurisdiction and contrary to the provisions of Section 173(8) Cr.P.C. the petitioner's name were included in the progress report.

In this regard, learned counsel has placed reliance upon the dictum enunciated in **Peethambaran Vs. State of Kerala & Ors.** reported in **2023 (4) SCC 261**, and submitted that the power to order further investigation/re-investigation falls under the purview of the jurisdiction of higher Courts, therefore, the power rests

either with the concerned Magistrate or with the higher Court and not with the investigating agencies.

On the directions of the Court, notices were accepted by the learned counsel for the State.

Learned counsel for the State has submitted that in the instant matter, charge-sheet was filed with a caveat under Section 173(8) of Cr.P.C. It is further submitted that on bare perusal of the record it cannot be inferred that matter was closed for re-investigation or for further investigation/consequential effects qua the police authorities. Moreover, the judgment upon which the petitioners have relied stands on a differential factual matrix.

Learned counsel for the petitioner is directed to include victim/complainant in the instant matter, as a necessary party. After the same, amended cause title be filed.

Issue notices qua the newly impleaded parties.

List the matter on 09.09.2024.

Investigating Officer is directed to remain present in the Court, on the next date of hearing along with the relevant record.

(SAMEER JAIN),J