

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

S.B. Criminal Miscellaneous (Petition) No. 7078/2021

Mohan Lal Sharma S/o Shri Shriram Sharma

-----Petitioner

Versus

Ramkaran Potar S/o Shri Madholal Potar and Ors.

-----Respondents

For Petitioner(s) : Mr. S.S. Hora through VC

For Respondent(s) :

HON'BLE MR. JUSTICE FARJAND ALI

Order

03/02/2022

By way of filing the instant miscellaneous petition, challenge has been made to the order dated 07.11.2017 passed by learned Additional Chief Judicial Magistrate, Nainwa, Distt. Bundi in Criminal Complaint No. 950/2017 whereby the learned Magistrate took cognizance of the offence under Section 138 of NI Act and has issued process.

Learned counsel for the petitioner submits that the petitioner is a retired Principal of the Saint Soldier Senior Secondary School, Nainwa, Bundi. He was serving in the school till 24.03.2017 and thereafter, left the office and spending his life at his village Govindgarh, Alwar. A cheque, purportedly issued in the capacity of Principal of School, got dishonored after the retirement of the petitioner and finally a prosecution was launched by the holder of the cheque but surprisingly, neither the process is issued against the school administration nor against the persons who are holding the office in present and only the petitioner has been chosen to face the rigor of the trial.

Learned counsel for the petitioner submits that in view of Section 141 of the NI Act, before fastening the vicarious liability, the institution or the School Authority must have been arraigned as an accused.

The matter requires serious consideration.

Issue notice, returnable within eight weeks.

List the matter after eight weeks.

Till then, the further proceeding in criminal complaint No. 950/2017 pending in the Court of ACJM, Nainwa, Bundi shall remain stayed.

(FARJAND ALI),J

SAHIL SONI /42



सत्यमेव जयते