

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Criminal Miscellaneous (Petition) No. 5989/2023

Jitendra Tank S/o Shri Sita Ram Tank, Aged About 44 Years,
Resident Of 282, New Market Colony, Rawatbhata, District
Chittorgarh (Raj).

-----Petitioner

Versus

State Of Rajasthan, Through Public Prosecutor.

-----Respondent

For Petitioner(s)	:	Mr. Narendra Kumar
For Respondent(s)	:	Mr. Rajesh Choudhary, GA-cum-AAG with Mr. Vinod Kumar Sharma

JUSTICE ANOOP KUMAR DHAND

Order

08/05/2026

1. The instant petition has been preferred against the impugned order dated 13.01.2023 passed by the Special Judge, Anti Corruption Cases, No.1, Jaipur Metropolitan-II, by which cognizance has been taken against the petitioner along with co-accused person under Section 7, 7-A and 8 of the Prevention of Corruption (Amendment) Act, 2018 read with Section 120B IPC.
2. At the outset, a preliminary objection has been taken by the Government Advocate-cum-Additional Advocate General that the instant petition is not maintainable, as on earlier occasion, the petitioner-Jitendra Tank approached this Court at the Principal Seat at Jodhpur by way of filing S.B. Criminal Misc. Petition No.262/2021, assailing the entire proceedings arising out of the impugned FIR. Learned GA-cum-AAG submits that the petitioner-Jitendra Tank along with other co-accused Virendra Tak withdrew

their respective petitions, seeking liberty to raise all objections at the time of framing of the charges. Counsel submits that on the basis of the aforesaid prayer made by the petitioner-Jitendra Tank and coaccused-Virendra Tak, the aforesaid liberty was granted to them by the Co-ordinate Bench of this Court at Principal Seat at Jodhpur vide order dated 19.07.2023, but much prior to that, the order impugned was passed on 13.01.2023. He further submits that till date, charges have not been framed. Hence, under these circumstances, the order of taking cognizance cannot be assailed by the petitioner and the instant petition is liable to be rejected on this count alone.

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

4. This fact is not in dispute that the petitioner-Jitendra Tank submitted S.B. Criminal Misc. Petition No.262/2021 along with co-accused Virendra Tak, who also submitted S.B. Criminal Misc. Petition No.1092/2021 at Principal Seat of this Court at Jodhpur and both petitions were withdrawn by them, seeking liberty to raise all objections at the time of framing of charge. On the basis of the aforesaid statements made by the counsels for the aforesaid accused persons, the following order was passed by the Co-ordinate Bench of this Court at Principal Seat at Jodhpur on 19.07.2023, which reads as under:

“Learned counsel for the petitioners want to withdraw the present misc. petitions and seeks liberty to raise all the objection at the time of framing of charges.

Accordingly, the present misc. petitions stand dismissed as withdrawn with liberty as prayed for.

Stay petitions also stands dismissed.”

5. In the considered opinion of this Court, the petitioner-Jitendra Tank is estopped by his own act. He cannot assail the order of cognizance by way of filing the instant petition, because till date charges have not been framed.

6. The petitioner would at liberty to take all available arguments and defence at the time of framing of charge in light of the order dated 19.07.2023 passed by the Co-ordinate Bench of this Court at Principal Seat at Jodhpur, as the petitioner is estopped from assailing the order of cognizance.

7. 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