

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



S.B. Criminal Miscellaneous (Petition) No. 6105/2023

Devendra Kumar Nagar S/o Shri Ramsingh, Aged About 32 Years, R/o Village and Post Udaipuriya, Tehsil Chomu, P.S. Samod, District Jaipur. At then, posted as Technical Assistant, JVVNL, Chomu, District Jaipur.

----Petitioner

Versus

1. State of Rajasthan, Through Public Prosecutor.
2. Naveen Yadav (A.E.N), at that time, Posted at Chomu, H.T.M., Office, District Jaipur.

----Respondents

For Petitioner(s)	:	Mr. Mohammed Anees
For Respondent(s)	:	Mr. Narendra Singh Dhakar-PP

JUSTICE ANOOP KUMAR DHAND

Order

06/05/2026

1. By way of filing the instant criminal misc. petition, a challenge has been led to the impugned order dated 04.04.2023, passed by the Court of the Additional District and Sessions Judge No. 2, Jaipur Metropolitan Jaipur-II, by which the protest petition submitted by the petitioner has been rejected and the Final Report has been accepted.

2. Learned counsel for the petitioner submits that the aforesaid order was passed in absence of the petitioner and his counsel on 04.04.2023. Counsel submits that in-fact the date fixed in the instant matter was 03.04.2023, but all of sudden, a holiday was declared on the said date and the petitioner was present in the Court but this fact that the matter listed for 03.04.2023 would be

taken on 04.04.2023 was not informed to the petitioner, hence under these circumstances, the petitioner could not appear on the said date before the Court below and the impugned order has been passed. Counsel submits that the investigation in the instant matter was not conducted in fair and proper way and the police has submitted the Final Report (Negative), against which protest petition was filed by the petitioner and in support of the said protest petition, statements of two witnesses CW-1 Devendra Kumar Nagar and CW2-Shivraj Sharma were recorded. Counsel submits that the petitioner had wanted to produce additional evidence but the aforesaid opportunity was closed on account of his absence. He further submits that even on last occasion, when the matter was listed before the Trial Court on 29.10.2022, the Presiding Officer was on leave, hence, the case was posted for 28.11.2022 and on the said date, there was a strike of Court employees and the next date posted before the Court below was 03.04.2023 and on account of sudden declaration of a holiday on the said date, the matter was listed for 04.04.2023 and the petitioner could not appear on the next date i.e. 04.04.2023. Counsel submits that the matter is required to be decided on merit instead of rejecting the protest petition on a technical count for want of presence of the petitioner, hence, interference of this Court is warranted.

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

4. Considering the arguments raised by counsel for the petitioner and looking to the fact that on account of sudden declaration of a holiday on the date i.e. on 03.4.2023, the Court

premises was closed and the case was posted for the next date i.e. on 04.04.2023. The aforesaid fact was not brought into the notice of the petitioner, hence he could not appear and in his absence, the impugned order has been passed. The absence of the petitioner on the fateful day i.e. on 04.04.2023 was bona fide, hence, under these circumstances, the impugned order is not sustainable and the same is liable to be quashed and set aside. The matter is remitted to the Court below for passing fresh order, after providing due opportunity of hearing to the petitioner to lead additional evidence and after hearing his arguments, fresh order be passed strictly in accordance with law.

5. The petitioner is directed to appear before the Court below on 18.05.2026.

6. Accordingly, the present criminal misc. petition stand disposed of. Stay application and all pending application(s), if any, also stand disposed of.

(ANOOP KUMAR DHAND),J