

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Criminal Miscellaneous (Petition) No. 6923/2025

Sanjay Gupta S/o Late Shri Narayan Dutt Gupta Partner Firm
Modern Machinery Store, R/o Heera Ice Factory Old Barafkhana
Road, Station Road, Alwar.

-----Petitioner

Versus

1. State Of Rajasthan, Through Public Prosecutor.
2. Rajesh Kumar Gupta S/o Late Shri Kishori Lal Gupta, R/o
House No. 05/26 N.e.b. Housing Board Alwar (Raj.)

-----Respondents

For Petitioner(s)	:	Mr. Mohit Gupta
For Respondent(s)	:	Mr. Amit Gupta-PP

JUSTICE ANOOP KUMAR DHAND

Order

11/11/2025

1. By way of filing this criminal misc. petition, a challenge has been led to the impugned order dated 22.07.2024 passed by the Special Judicial Magistrate (N.I. Act Cases) No. 2, Alwar by which the prayer made by the petitioner for taking cognizance against the other partners of the Firm-Modern Machinery Store has been declined.
2. Aggrieved by the aforesaid order, the petitioner preferred a revision petition before the Court of Additional District and Sessions Judge No.1, Alwar, however the same was also rejected vide impugned order dated 04.08.2025.
3. Counsel for the petitioner submits that a complaint under Section 138 of the N.I. Act was submitted by the complainant respondent against the Firm Modern Machinery Store and the

petitioner. Counsel submits that the Firm Modern Machinery Store is a partnership firm wherein apart from the petitioner there are other partners and the cheque in question was issued under joint liability on behalf of the aforesaid partnership firm, hence each and every other partner of the firm is liable to be implicated in the complaint. Counsel submit that when the cognizance was taken alone against the petitioner and the partnership firm, a prayer was made by the petitioner for taking cognizance against the other partners and for that purpose, he filed a revision petition No. 119/2023 before the Court of Additional Sessions Judge and the same was partly allowed on 16.11.2023 and a direction was issued to the trial Court to pass appropriate orders with regard to the cognizance against rest of the partners of the Firm Modern Machinery Store. Counsel further submits that in compliance of the aforesaid order, arguments was raised by the petitioner before the trial Court for taking cognizance against rest of the partners. The aforesaid prayer of the petitioner was not entertained on a technical count that no such order has been passed by the revisional Court and no copy of the said order has been placed on record. Thereafter, no order was passed for taking cognizance against the rest of the partners. Counsel submits that the order dated 16.11.2023 was clear and specific but the same was not complied with by the learned Magistrate, hence interference of this Court is warranted.

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

5. Considering the arguments raised by counsel for the petitioner and looking to the fact that once the revisional Court

has passed the order dated 16.11.2023 by issuing certain directions to the trial Court for proceeding further with the matter for taking cognizance against the other partners of the Firm Modern Machinery Store, it was the duty of the learned Magistrate to peruse the aforesaid order and pass appropriate orders but instead of doing so, the prayer of the petitioner was declined on a technical count that no such material was produced on record. It appears that the Magistrate has not perused the order dated 16.11.2023 while passing the impugned order dated 22.07.2024.

6. On this count, the order dated 22.07.2024 stands quashed and set aside. As a consequence thereof, the revisional Court order dated 04.08.2025 also stands quashed and set aside and the matter is remitted to the learned Magistrate with exceptions to pass fresh order in the light of the order dated 16.11.2023 passed by the Additional Sessions Judge No. 1, Alwar expeditiously as early as possible, after affording due opportunity of hearing to the respecting parties.

7. The present criminal misc. petition stands allowed, accordingly. Stay application and all pending application(s), if any, also stand disposed of.

(ANOOP KUMAR DHAND),J