

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



S.B. Criminal Miscellaneous (Petition) No. 7614/2023

1. Jaipur Zila Dugdh Utpadak Sahakari Shang Limited, (Jaipur Dairy) Near Gandhi Nagar Railway Station Jaipur Rajasthan 302017 through its Managing Director, Chand Mal Verma (RAS) Aged About 50 Yrs S/o Prem Chand Verma Presently Posted as MD, JZDUSS Ltd. Near Gandhi Nagar Railway Station, Jaipur.
2. Managing Director, Chand Mal Verma (RAS) S/o Prem Chand Verma, Aged About 50 Years, Presently posted as MD, JZDUSS Ltd. Near Gandhi Nagar Railway Station, Jaipur
3. Chairman, Om Prakash Pooniya S/o Shiv Karan Singh, Aged About 67 Years, Presently Chairman, ZUDSSL, Near Gandhi Nagar Railway Station Jaipur.

-----Petitioners

Versus

1. State Of Rajasthan, Through Public Prosecutor
2. Shri Dinesh Chand S/o Ram Lal, Aged About 45 Years, Presently S.I.P.S. Chaksu Jaipur City (South) Rajasthan

-----Respondents

For Petitioner(s)	:	Dr. Abhinav Sharma, Advocate Mr. Mayank Gupta, Advocate Mr. Akshaya Varma, Advocate Mr. Deepak Kumar Yogi, Advocate Mr. Vaibhav Gupta, Advocate
For Respondent(s)	:	Mr. Amit Punia, Addl. GA

HON'BLE MR. JUSTICE BHUWAN GOYAL

Order

09/02/2026

1. This Criminal Misc. Petition has been filed by the petitioners under Section 482 CrPC for quashing FIR No. 0569/2023 registered at P.S. Chaksu, District Jaipur for the

offence under Sections 188, 272, 273, 328 and 120-B IPC and the entire proceedings arise out of the aforesaid FIR.

2. Learned counsel for the petitioners submits that a fake complaint was received by Police Station, Chaksu to the effect that a vehicle No. RJ 26GA 6188 was carries adulterated milk daily in Jaipur Diary BMC No.958 from village Siroha falling under Kaithoon Police Station. The vehicle was intercepted and after reaching of BMC No. 958 when it was being emptied, it was detained by the police. The food safety inspectors were then called to collect sample. On receiving the report of the Food Safety Department, Sub-Inspector of police lodged the impugned FIR No. 0569/2023, which is per-se illegal. He further submits that by virtue of Section 89 of the Food Safety and Standards Act, 2006 (for short, 'the Act of 2006'), Section 59 of the Act of 2006 will override the provisions of Sections 272, 273 and 328 of IPC. Therefore, simultaneous proceedings under both the statutes cannot be initiated.

3. He has placed reliance upon the judgment passed by the Hon'ble Supreme Court in the case of **Sushil Kumar Gupta Versus State of West Bengal** reported in **224 (1) FAC 501** and the order dated 19.11.2025 passed by the Coordinate Bench of this Court in the case of **Ravi Versus State of Rajasthan** (S.B. Cr. Misc. Petition No. 1945/2024) and prays that in the light of the aforesaid judgment and the order, impugned FIR and entire proceedings arising out of the said FIR be quashed.

4. Learned Addl. G.A. does not oppose the same.

5. Heard learned counsel for the parties and carefully scanned the relevant material available on record.

6. In the case of Sushil Kumar Gupta (supra), their Lordships of the Supreme Court held as under:

"11. Thus, the dictum as laid in Ram Nath (supra) is that if an accused is charged for the offences under Sections 272 and 273 respectively of IPC, Section 59 of the Act, 2006 would also be attracted. In fact, the offence under Section 59 of the Act, 2006 is more stringent compared to Sections 272 and 273 of the I.P.C. respectively. The final conclusion drawn by this Court in Ram Nath (supra) is that by virtue of Section 89 of the Act, 2006, Section 59 will override the provisions of Section 272 and 273 respectively of the I.P.C. This Court ultimately held that there cannot be simultaneous prosecution under both the statutes.

12. The sum and substance of the ratio in Ram Nath (supra) appears to be that after the enactment of the Act, 2006, more particularly, keeping in mind the offence under Section 59 of the Act, 2006, there cannot be prosecution for the offences under Sections 272 and 273 respectively of the I.P.C."

13. In the result, this appeal succeeds and is hereby allowed. The impugned judgment and order passed by the High Court is set aside. The proceedings of criminal case no. 2795/2017 arising from the FIR No. 58/2017 are hereby quashed. However, we clarify that it shall be open for the State to initiate appropriate proceedings in accordance with the provisions of the Act, 2006."

7. Since the issue involved in this petition has already been set at rest by the Hon'ble Apex Court in the case of Sushil Kumar Gupta (supra) and in view of the consent of learned counsel for both the parties, Criminal Misc. Petition is allowed, FIR No. 0569/2023 registered at P.S. Chaksu, District Jaipur and the entire proceedings arise out of the aforesaid FIR are quashed and set-aside. However, the Food Safety Officer and the authority concerned would be at liberty to initiate proper proceedings against the petitioners in accordance with law, if not already

initiated. Thereafter the authority concerned is free to act in accordance with the provisions of the Act of 2006 for the offences punishable therein.

8. The stay application as well as all other applications, if pending, stand disposed of.

9. Let a copy of this order be sent to the concerned Food Safety Officer for compliance of this order.

(BHUWAN GOYAL),J

DK/2