

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Criminal Writ Petition No. 2115/2024

Smt. Manju Khuteta W/o Late Shri Laxminarain Khuteta, Aged About 68 Years, R/o 937, Taksali Bhawan Chaura Rassta, Jaipur. At Present R/o 236, Katewa Nagar, New Sanganer Road, Jaipur.

-----Petitioner

Versus

1. State Of Rajasthan, Represented Through Public Prosecutor.
2. Dalpat Singh S/o Late Shri Rajendra Singh, Aged About 54 Years, R/o Uniyara House, Trimurti Circle, Jawahar Lal Nehru Marg, Jaipur Through Power Of Attorney Pratap Bhanu Singh Shekhawat, Aged 47 Years S/o Shri Jai Singh Shekhawat, R/o Plot No. B-12, Chomu House, C-Scheme, Jaipur.

-----Respondents

For Petitioner	:	Mr. A.K. Gupta, Sr. Adv. assisted by Mr. Gaurav Sharma, Adv. with Mr. Sarwat Alam, Adv.
For Respondent	:	Mr. Manvendra Singh Shekhawat, PP

HON'BLE MR. JUSTICE ASHUTOSH KUMAR

Order

21/01/2025

1. The present petition has been filed under Article 226 of the Constitution of India with the following prayer:-

"A. The impugned FIR No.1246/2013 dated 17.11.2013, registered at Police Station JDA, District Jaipur oner for the offences under sections 420, 448, 467, 468, 471 and 120B IPC qua the petitioner, may kindly be quashed and set aside;
B. The factual report dated 16.6.2014 (Annex.3) submitted by the SHO of Police Station JDA, Jaipur and also the Final Report No. 56/2015 dated 29.04.2015

(Annex.4) submitted by the Investigating Officer may kindly be accepted.

C. The impugned order of re-investigation dated 25.5.2017 (Annex.8) passed by the Court of learned ACJM No.7, Jaipur Metropolitan, may kindly be quashed and set aside.

D. Any other appropriate order or direction, which the Hon'ble Court may deem fit and proper in the facts and circumstances of the case, same may be granted in favour of the accused petitioner."

2. Learned counsel for the petitioner submits that in this matter a negative Final Report has been submitted by the Police, however a request for re-investigation was made by the Investigating Officer before the Additional Chief Judicial Metropolitan Magistrate No.7, Jaipur Metropolitan (hereinafter referred to as the 'Court below') in Case No.332/2016 and learned Court below vide order dated 25.05.2017, ordered to re-investigate the matter.

3. Learned counsel for the petitioner while placing reliance on the judgment passed by the Hon'ble Apex Court in the cases of **Vinay Tyagi Vs. Irshad Ali @ Deepak & Ors.** reported in **(2013) 5 SCC 762** & **K. Chandrasekhar Vs. The State of Kerala & Ors.** reported in **AIR 1998 SC 2001**, submits that the Magistrate has no power to direct the re-investigation of any matter though, he may direct for further investigation in the matter, therefore, the order dated 25.05.2017 was passed without jurisdiction and the same be stayed.

4. Learned Public Prosecutor accepts notice on behalf of the respondent No.1 and opposes the prayer made on behalf of the petitioner.

6. Learned Public Prosecutor while producing the factual report dated 29.11.2024 forwarded by SHO, Police Station Moti Dungri, Jaipur East, submits that in this matter, the investigation has already been completed. The factual report dated 29.11.2024 is taken on record.
7. Heard learned counsel for the parties.
8. The matter requires consideration.
9. Looking to the facts and circumstances of the case, let notices be issued to the respondent No.2 by ordinary course as well as registered post, returnable within four weeks. Requisites be filed within a period of one week, failing which this order shall lose its efficacy.
10. List the matter after four weeks, till then no effective steps shall be taken in furtherance of the order dated 25.05.2017 passed by the Additional Chief Judicial Metropolitan Magistrate No.7, Jaipur Metropolitan.

(ASHUTOSH KUMAR),J