



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



S.B. Criminal Miscellaneous (Petition) No. 7218/2022

1. Anil Prakash Goyal S/o Shri Prem Prakash Goyal, aged around 37 Years, R/o 1103, A, Aster 7, 10Th Floor, Super Tech Emerald Court, Sector-93A, Noida, Gautam Buddh Nagar, Uttar Pradesh.
2. Shivani Goyal W/o Shri Anil Prakash Goyal, aged around 69 Years, R/o 1103, Aster 7, 10Th Floor, Super Tech Emerald Court, Sector-93A, Noida, Gautam Buddh Nagar, Uttar Pradesh.
3. Jayati Garg W/o Shri Vishal Garg, Aged around 40 Years, R/o 5/22, Roop Nagar, Top Floor, Delhi.
4. Vishal Garg S/o Shri Surinder Kumar Garg, Aged About 44 Years, R/o 5/22, Roop Nagar, Top Floor, Delhi

----Petitioners

Versus

1. State of Rajasthan, through Public Prosecutor.
2. Sunayna Tapadiya D/o Shri Sanjeev Tapadia, Aged About 36 Years, R/o 104, Sarojini Marg, C-55, Roop Kamal Apartment, C-Scheme, Ashok Nagar, Jaipur.

----Respondents

Connected With

S.B. Criminal Miscellaneous (Petition) No. 7586/2022

Amit Goyal S/o Anil Prakash Goyal, aged about 37 Years, R/o 1103, Aster 7, 10<sup>th</sup> Floor, Super Tech Emerald Court, Sector-93A, Noida , Gautam Buddh Nagar, Uttar Pradesh.

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----Respondents

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For Petitioner(s) : Mr.A.K. Gupta, Sr. Adv. assisted by  
Mr.Rinesh Gupta  
Mr.Saurabh Pratap Singh &





Mr. Anil Gupta

For Respondent(s) : Mr. Jitendra Singh Rathore, Addl. GA.  
Mr. V.R.S. Bajwa, Sr. Adv. assisted by  
Ms. Savita Nathawat &  
Mr. Sanjay Rahar

**JUSTICE ANOOP KUMAR DHAND****Order**

1.	Date of conclusion of arguments	18/05/2026
2.	Date on which the order was reserved	18/05/2026
3.	Whether the full order or only the operative part is pronounced	Full judgment
4.	Date of pronouncement	22/05/2026

Reportable

1. The Hon'ble Apex Court while deciding Special Leave Petition (Crl.) Diary No.7155/2026 has directed vide order dated 27.02.2026 to decide two criminal misc. petitions bearing No.7218/2022 and 7586/2022 pending before this Court, assailing the validity of the F.I.R. No.90/2021, registered at the Police Station Mahila Thana (South) Jaipur for the offences punishable under Sections 498-A, 406 & 323 IPC and the consequent proceedings arising out of the Criminal Case No.22890/2022 pending before the Court of Metropolitan Magistrate No.12, Jaipur Metropolitan-I, wherein charge-sheet has been submitted against the petitioners for the above stated offences.

2. Since common prayer has been made in both these petitions, hence, with the consent of counsel for the parties, their arguments have been heard together and these petitions are being decided by this common order.



3. A preliminary objection has been taken by counsel appearing on behalf of the complainant-respondent Mr.V.R. Bajwa, Sr. Adv. that during pendency of these petitions, charges have been framed against the petitioners for the offences under Sections 498-A & 406 IPC by the learned Trial Judge vide order dated 23.04.2025 and aggrieved by the aforesaid order of framing of charges, the petitioners have already filed two different revision petitions bearing No.29/2025 and 295/2025 before the Court of Sessions Judge, Jaipur Metropolitan-I, Jaipur and the same have been transferred to the Court of Additional Sessions Judge No.2, Jaipur Metropolitan-I and are lying pending for adjudication on their merits. He submits that under these circumstances, the instant petitions are not maintainable and are liable to be rejected on this count alone that after framing of charge, the trial has commenced and the revision petition assailing the order of framing of charge is lying pending before the Revisional Court. He submits that with regard to the same cause, i.e., for quashing of consequential proceedings arising out of the F.I.R. No.90/2021, two separate petitions before two different Courts, i.e., before this Court & before the Revisional Court are not maintainable. Hence, the instant petitions are liable to be rejected on this technical count alone.

4. Learned counsels appearing on behalf of the petitioners submitted that when the instant petitions were submitted before this Court, an interim order was passed for not taking any coercive action against the petitioners. Hence, under these circumstances, the learned Trial Judge should not have passed the order of framing charges against the petitioners. Since charges





have been framed during pendency of the instant petitions and on account of non-hearing of the instant petitions, the order of framing of charge has been assailed by way of filing two separate revision petitions before the Revisional Court, i.e., Court of Sessions. Counsels submit that the powers of this Court under Section 482 Cr.P.C. are inherent and the same can be exercised by this Court to prevent the abuse of process of law at any stage and there is no limit to exercise such power and the same can be exercised to secure the ends of justice. They conjointly further submit that there is no such bar under the provisions contained under the Code of Criminal Procedure, 1973 that filing of revision petition against the order of framing of charge would in any manner affect the instant petitions filed under Section 482 Cr.P.C.

5. In support of their contentions, they have placed reliance upon the judgments passed by the Hon'ble Apex Court in the cases are as follows:-

- (I) **G Sagar Suri Vs. State of UP** reported in **(2000) 2 SCC 636**.
- (II) **Chaman Lal Sankhla Vs. State of Haryana** reported in **2008 SCC OnLine P&H 207**.
- (III) **Prabhu Chawla Vs. State of Rajasthan** reported in **(2016) 16 SCC 30**.

They submit that in light of the submissions made hereinabove, the instant petitions are maintainable even under the changed circumstances, where charges have been framed. Therefore, the instant petitions are required to be heard and decided on merits and the same should not be dismissed on the ground of non-maintainability. They further submit that the scope





of revision petition under Section 397 Cr.P.C. is confined to see the correctness of the order passed by the Trial Court, but the scope of Section 482 Cr.P.C. is wider than the scope of Section 397 Cr.P.C. Hence, a prayer has been made to hear and decide the instant petitions on their merits. They submit that there is merit and substance in these petitions as the lodging of the impugned F.I.R. amounts to gross abuse of process of law.

6. *Per contra*, learned counsel appearing on behalf of the complainant-respondent Mr.V.R. Bajwa, Sr. Adv. submits that while filing Special Leave Petition Crl. Diary No.7155/2026, this fact was not brought into the notice of the Hon'ble Apex Court by the petitioners that charges were already framed against them by the Trial Court vide order dated 23.04.2025. He further submits that without bringing this material fact into the notice of the Hon'ble Apex Court, the petitioners got the order dated 27.02.2026, on the pretext that in case, these petitions are not disposed of or decided, the trial would commence and the purpose of both filing the instant petitions would be frustrated and the same would become infructuous and would further cause prejudice to the petitioners. Counsel submits that non-disclosure of the order of framing of charge amounts to suppression on the part of the petitioners, before the Hon'ble Apex Court.

7. Counsel further submits that after framing of charge vide order dated 23.04.2025, the trial has already commenced and the instant petitions have already become infructuous, in light of the judgment passed by the Hon'ble Apex Court in the case of **Hardeep Singh Vs. State of Punjab** reported in **2014 (3) SCC 92**.





8. Counsel further submits that even otherwise also, the misc. petitions, submitted by the petitioners Anil Prakash Goyal, Shivani Goyal, Jayati Garg and Vishal Garg is not maintainable as on earlier occasion also, they approached this Court by way of filing S.B. Criminal Misc. Petition No.380/2022 wherein this Court was not inclined to entertain the petition on its merits and direction was issued by this Court to the Investigating Officer for conducting fair, impartial and expeditious investigation. He submits that neither any liberty was granted to the petitioners nor the petitioners sought any liberty to file any successive petition to challenge the validity of the impugned F.I.R..

9. He further submits that prior to filing these petitions, charge-sheet was already submitted against the petitioners and cognizance was also taken against them and thereafter, the petitioners approached this Court and this Court vide order dated 10.02.2023, passed an interim order directing that no coercive action shall be taken against the petitioners. Counsel submits that the word 'no coercive action' is vague, no specific direction was issued by this Court not to proceed against the petitioners. Hence, under these circumstances, there is no order in favour of the petitioners restraining the Trial Court not to pass the order of framing of charge against the petitioners.

10. Counsel submits that once charges have been framed against the petitioners vide order dated 23.04.2025 and that order has already been assailed by the petitioners by way of filing two separate revision petitions before the Court of Sessions and the same are lying pending for adjudication on merits, the instant misc. petitions lying before this Court are not maintainable.





Counsel submits that the powers contained under Section 482 Cr.P.C. cannot be exercised by this Court, if there is a specific provision under the Cr.P.C. available to the petitioners to redress their grievance. Once the petitioners have already approached the Revisional Court, by way of filing two separate revision petitions against the order of framing of charge for redressal of their grievances, then in the light of the same, the instant petitions are not maintainable and are liable to be dismissed on this count alone.

11. In support of their contentions, counsel has placed reliance upon the judgment passed by the Hon'ble Apex Court in the case of **Madhu Limaye Vs. The State of Maharashtra** reported in **(1977) 4 SCC 551**.

12. Counsel submits that in view of the submissions made hereinabove, the instant petitions are liable to be rejected on this technical count.

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

14. The undisputed fact is that after registration of F.I.R. against the petitioners, charge-sheet has been submitted and cognizance has also been taken against them. At this stage, the petitioners approached this Court by way of filing these two petitions.

This fact is also not in dispute that during pendency of the instant petitions, charges have been framed against the petitioners and they have submitted two separate criminal revision petitions before the Revisional Court, i.e., the Sessions Court, and the same are lying pending for adjudication.





15. Now, the question which remains for consideration of this Court is 'Whether the petitioners can be permitted to avail two parallel remedies for the same relief, i.e., quashing of the proceedings or their discharge?'

16. There are certain stages of the proceedings in a criminal case whenever F.I.R. is registered for commission of any cognizable offence. The F.I.R. is registered under Section 154 Cr.P.C. After investigation, if the Police finds involvement of the accused in commission of the alleged offence, charge-sheet is submitted against him under Section 173 Cr.P.C. before the competent Court of law. The Magistrate can take cognizance against such accused, if he finds *prima facie* case against him and proceed accordingly. Thereafter, the trial reaches to the stage of framing of charge/discharge. In case the Court comes to the conclusion that charges are required to be framed, then necessary orders are required to be passed in this regard.

The accused can challenge the validity of the F.I.R., charge-sheet, order of taking cognizance and order of framing of the charges. He can file revision petition under Section 397 Cr.P.C. before the Revisional Court against the order of taking cognizance and order of framing of charges. Prior to that stage, he can challenge the F.I.R., charge-sheet and cognizance order before this Court, by way of filing a petition under Section 482 Cr.P.C. But in any case, he cannot avail two parallel remedies for redressal of his grievance, i.e., one before the Revisional Court and another before this Court.

17. Herein, the instant case for quashing the F.I.R., challenging the charge-sheet and the order of cognizance, the petitioners have





filed the instant petitions under Section 482 Cr.P.C. However, during pendency of these petitions, charges have been framed against them and they have assailed the said order before the Revisional Court by way of filing criminal revision petition under Section 397 Cr.P.C.

18. It is settled proposition of law that an aggrieved party cannot be allowed to avail two parallel remedies for redressal of a common grievance. By availing two parallel remedies, the petitioners intend to sail in two boats and the same cannot be permitted. One cannot pursue two parallel remedies for the same cause at the same time, as this will be deemed to be an abuse of the process of law and the Court. Though multiple remedies might technically exist and selecting one remedy often bars the initiation of another remedy simultaneously. Such practice cannot be appreciated, rather it is liable to be deprecated. Once a party chooses to pursue one remedy (eg. revision), he/she is bound by it and cannot switch over to another. Essentially a litigant must choose his/her path and he/she cannot be allowed to "hedge his bets" by way of pursuing two parallel remedies simultaneously for espousing the same cause.

19. This Court is of the considered view that as a general principle where two remedies are available under law, one of them should not be taken as operating in derogation of the other. If a party has elected to pursue a particular remedy, he is bound by it and cannot be allowed to pursue another remedy simultaneously.

20. Instant matter is partly based on the Latin maxim which forms the foundational principle of Roman Jurisprudence, i.e. "*Nemo debet bis vexari pro una et eadem causa*" which translates





to "no man should be vexed twice for the same cause", meaning thereby that one cannot be allowed to avail two parallel remedies for the same matter at the same time.

21. Even otherwise also, once the Court applies its mind under Section 240 Cr.P.C. and frames charges against the accused, the earlier order of cognizance ceases to have its independent existence. Therefore, no separate grievance qua cognizance can be entertained post framing of charge.

The order of taking cognizance under Section 190 Cr.P.C. has merged into the order of framing of charge under Section 240 Cr.P.C. Hence, the challenge made to the cognizance order in the instant petitions has become infructuous and these petitions are not maintainable. At this stage, under the changed circumstances, the remedy, if any, lies in assailing the order of framing of charges. Since the petitioners have already availed that remedy by way of filing revision petition under Section 397 Cr.P.C. before the Revisional Court, i.e., Sessions Court, hence, under these changed circumstances, these petitions under Section 482 Cr.P.C. against the order of cognizance are not maintainable. Even the Hon'ble Apex Court in the case of **Madhu Limaye** (supra) has held that the powers under Section 482 Cr.P.C. is not to be restored if there is a specific provision in the Code for redressal of the grievance of the aggrieved party.

22. If such practice of filing two separate petitions, i.e., revision petition under Section 397 Cr.P.C. against the order of framing of charges before the Revisional Court and the other petitions under Section 482 Cr.P.C. against the order of cognizance is allowed, it would open a pandora box to the litigants to avail two separate





remedies for redressal of common grievance before two different Courts. This Court is already flooded with lot of criminal misc. petitions under Section 482 Cr.P.C. If such practice is allowed to sustain, there would be flood of petitions under Section 482 Cr.P.C. The parties would file petitions under Section 397 Cr.P.C. before the Revisional Court and petition under Section 482 Cr.P.C. before this Court against the same grievance to get relief in the same matter. One has to stick to one remedy only, otherwise, it would amount to abuse of the process of law.

23. In view of the reasons stated above, the instant petitions stand disposed of, granting liberty to the petitioners to pursue the remedy under Section 397 Cr.P.C. before the Revisional Court for redressal of their grievances.

The Revisional Court is directed to hear and decide the pending revision petitions against the order of framing of charges, expeditiously as early as possible on its merits, after providing due opportunity of hearing to all the sides.

24. With the aforesaid observations and directions, the instant petitions stands disposed of. Stay application and all pending application(s), if any, also stand disposed of.

**(ANOOP KUMAR DHAND),J**

Aayush Sharma /23-24

