



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Criminal Miscellaneous (Petition) No. 2195/2014

Manisha Jain wife of Shri Sumit Jain R/o Near SBBJ Bank,
Industrial Area, Rani Bazar, Bikaner

----Petitioner

Versus

1. State Of Rajasthan
2. Nawla Ram S/o Bhagwana Ram R/o 4, Karni Nagar, Pavan Puri, Bikaner
3. Dr. Manohar Lal S/o Nawla Ram R/o 4, Karni Nagar, Pavan Puri, Bikaner

----Respondent

Connected With

S.B. Criminal Miscellaneous (Petition) No. 2330/2014

1. Nawla Ram S/o Bhagwana Ram presently posted as Manager, SBBJ, Reional Officer, Bikaner
3. Dr. Manohar Lal S/o Nawla Ram Presently posted as Assistant Professor, Medical Collage, Biakner Both R/o 4, Karni Nagar, Pavan Puri, Bikaner

----Petitioner

Versus

1. State Of Rajasthan
2. Manisha Jain W/o Sumit Jain R/o Near SBBJ Bank, Industrial Area, Rani Bazar, Bikaner

----Respondent

For Petitioner(s) : Mr. Kapil Purohit
For Respondent(s) : Mr. N.S. Chandawat, PP
Mr. J.S. Choudhary Sr. Advocate
assisted by Mr. Pradeep Choudhary
Ms. Sampati Choudhary

HON'BLE MR. JUSTICE FARJAND ALI

Order

REPORTABLE

DATE OF CONCLUSION OF ARGUMENTS	19/05/2026
DATE ON WHICH ORDER IS RESERVED	19/05/2026
FULL ORDER OR OPERATIVE PART	Full Order

**DATE OF PRONOUNCEMENT****10/05/2026****BY THE COURT:-**

1. The instant miscellaneous petitions arise out of a common set of facts and challenge the orders dated 28.05.2011 and 09.09.2014 passed by the learned Chief Judicial Magistrate, Bikaner in FR No.60/2007 and the learned Addl. Sessions Judge (Women Atrocities Cases), Bikaner in Criminal Appeal No.3/2013 respectively. Since both the petitions emanate from the same criminal proceedings and involve identical questions of fact and law, they are being decided by this common order.

2. Briefly stated, an FIR came to be registered at Police Station Kotgate, Bikaner for the offences punishable under Sections 366, 376 and 384 IPC by complainant Manisha Jain. Upon completion of investigation, the police submitted a negative Final Report concluding that no case was made out against the accused persons. Dissatisfied with the outcome of the investigation, the complainant filed a protest petition. The learned Chief Judicial Magistrate, vide its order dated 28.05.2011, disagreed with the negative Final Report, took cognizance of the offences under Sections 366, 376 and 384 IPC and issued process against the accused persons through warrants of arrest.

2.1. Aggrieved thereby, the accused persons preferred an appeal before the the learned Addl. Sessions Judge (Women Atrocities Cases), Bikaner, who vide order dated 09.09.2014, while maintaining the order taking cognizance, partly allowed the revision by modifying the nature of process issued against the





accused and directed their appearance through bailable warrants instead of warrants of arrest. Hence the instant misc.petitions.

3. Assailing the aforesaid orders, learned counsel appearing for the accused persons contended that the learned Magistrate acted illegally in discarding the negative Final Report without recording any cogent reason for disagreeing with the conclusions arrived at by the Investigating Officer. It was urged that the material collected during investigation, the statements of witnesses and the circumstances which weighed with the Investigating Agency were completely ignored and cognizance was taken solely on the basis of the allegations reiterated in the protest petition. It was, therefore, submitted that the impugned orders suffer from non-application of mind and deserve to be quashed.

4. Per contra, learned counsel appearing for the complainant supported the order taking cognizance and contended that the learned Magistrate was fully competent to disagree with the opinion expressed by the Investigating Officer and to independently assess the material available on record. It was submitted that sufficient grounds existed for proceeding against the accused persons and, therefore, the order taking cognizance did not warrant interference. The complainant further questioned the propriety of the revisional order to the extent it interfered with the process issued by the learned Magistrate.

5. During the pendency of the proceedings before this Court, the complainant expired. Admittedly, no application seeking substitution by her legal representatives has been filed.





Nevertheless, since the challenge laid by the accused persons survives for adjudication and both petitions arise out of the same proceedings, this Court proceeds to examine the legality, correctness and propriety of the impugned orders.

6. I have bestowed my anxious consideration to the rival submissions advanced at the Bar and have meticulously perused the impugned orders, the negative Final Report submitted by the Investigating Agency, the protest petition, the material collected during investigation and the entire record of the proceedings.

6.1. At the outset, it deserves to be noticed that the controversy involved in the present matter lies within a narrow compass. The pivotal question which arises for determination is as to whether, while disagreeing with the negative Final Report submitted by the Investigating Officer, the learned Magistrate has recorded adequate and legally sustainable reasons reflecting conscious application of mind to the material collected during investigation. The answer to the aforesaid question, in the considered opinion of this Court, has to be rendered in the negative.

6.2. It is trite that a Magistrate is not bound by the conclusion drawn by the Investigating Officer and possesses ample jurisdiction to take cognizance notwithstanding submission of a negative Final Report. Equally well settled, however, is the principle that where a Magistrate chooses to depart from the conclusion reached by the Investigating Agency, the order must disclose due and meaningful consideration of the material collected during investigation and must contain reasons indicating





as to why the conclusions recorded by the Investigating Officer are unacceptable. Judicial discretion, howsoever wide, cannot be exercised in an unstructured or mechanical manner. The order must manifest a process of reasoning and not merely the ultimate conclusion.

7. A careful reading of the impugned order dated 28.05.2011 reveals that the learned Magistrate has principally relied upon the averments contained in the protest petition and the statements of the complainant and her parents. The order does not reflect any meaningful consideration of the extensive investigation undertaken by the police. Nor does it reveal any conscious examination of the circumstances which persuaded the Investigating Officer to submit a negative Final Report. The reasons recorded in the Final Report have neither been discussed nor dealt with. The learned Magistrate has not indicated as to which finding of the Investigating Officer was erroneous, perverse, unsupported by record or otherwise unacceptable in law.

7.1. The record demonstrates that the Investigating Agency had undertaken a detailed inquiry and had examined various factual aspects of the matter before arriving at the conclusion that no case warranting prosecution was made out. The negative Final Report was not a cryptic document containing bald conclusions. On the contrary, it was founded upon material collected during investigation and was supported by reasons. Once such material was available before the Court, it was incumbent upon the learned Magistrate to advert thereto and record reasons for differing with





the same. Unfortunately, the impugned order is conspicuously silent on this aspect.

7.2. The Court is unable to persuade itself to accept that mere reiteration of allegations contained in the protest petition could, by itself, furnish a valid substitute for judicial consideration of the investigation record. A protest petition undoubtedly provides an avenue to the informant to question the correctness of the investigation. Nevertheless, the filing of a protest petition does not eclipse the investigation conducted by the police, nor does it relieve the Court of its obligation to evaluate the material collected during such investigation. The judicial exercise required in such circumstances is one of comparative evaluation and reasoned disagreement. The learned Magistrate, however, appears to have accepted the protest petition version in its entirety while virtually ignoring the investigation record.

7.3. What is particularly striking is the absence of any discussion regarding the circumstances and evidence which weighed with the Investigating Officer while recommending closure of the case. The order of cognizance does not analyse the evidence collected during investigation; it does not indicate why the Investigating Officer's conclusions were untenable; nor does it assign any reason demonstrating that the material on record prima facie established commission of offences under Sections 366, 376 and 384 IPC notwithstanding the contrary opinion formed during investigation. Such an approach, in the considered view of this





Court, falls short of the standards expected from a judicial order which seeks to overturn the outcome of a completed investigation.

7.4. The requirement of recording reasons is not an empty formality. Reasons constitute the heartbeat of a judicial order. They assure the parties that their contentions have received due consideration, facilitate effective appellate or supervisory review and ensure transparency in the decision-making process. An order bereft of reasons or one which ignores material evidence cannot be sustained merely because the Court possesses jurisdiction to pass such an order. Jurisdiction and its lawful exercise are distinct concepts. While the Magistrate undoubtedly possessed jurisdiction to disagree with the Final Report, the exercise of such jurisdiction was required to be supported by cogent reasons, which are conspicuously absent in the present case.

7.5. This Court further finds that the appellate court, while modifying the nature of process issued against the accused persons, did not examine the legality and propriety of the foundational order taking cognizance from the perspective discussed hereinabove. Since the very basis of the criminal proceedings, namely the order taking cognizance, suffers from a manifest infirmity, the consequential revisional order cannot survive independently.

7.6. Another aspect which cannot be lost sight of is that during the pendency of the proceedings before this Court, the complainant expired and no application seeking substitution by any legal representative was ever moved. Consequently, the





petition instituted at the instance of the complainant remained unprosecuted and no effective challenge survives on that behalf.

7.7. A perusal of the negative Final Report further reveals certain attendant circumstances of considerable significance which, in the considered opinion of this Court, lend substantial assurance to the conclusions arrived at by the Investigating Officer. The material collected during investigation discloses that the complainant and the accused were not strangers to each other and had remained acquainted for a considerable period prior to the lodging of the FIR. The investigation further indicates that the complainant continued to remain in the company of the accused for an extended duration and accompanied him on several occasions under circumstances which, prima facie, do not suggest the existence of any immediate threat, compulsion, coercion or physical restraint.

7.8. The Investigating Agency has also noticed that during the period in question, the complainant had access to numerous opportunities to communicate her alleged predicament to her family members, acquaintances or public authorities. She is stated to have visited public places, interacted with different persons and remained in an environment where assistance could readily have been sought. Notwithstanding the availability of such opportunities, there is no material indicating that she ever raised any protest, sought intervention from any quarter or disclosed the alleged offences to any person contemporaneously. Such prolonged and unqualified silence was viewed by the Investigating





Officer as a circumstance fundamentally inconsistent with the allegations subsequently levelled in the FIR.

7.9. The investigation further brought to light the nature and tenor of the relationship subsisting between the parties. The surrounding circumstances, as reflected from the statements recorded during investigation and other material collected by the police, portray a relationship marked by continuity of association and voluntary companionship rather than one characterized by force, intimidation or deceit. The conduct attributed to the complainant, both antecedent and subsequent to the alleged occurrence, was found by the Investigating Officer to be incongruous with the ordinary and natural behaviour expected of a person claiming to have been subjected to the grave offences alleged in the FIR.

7.10. What particularly weighed with the Investigating Agency was the unexplained delay and sustained reticence on the part of the complainant in setting the criminal law into motion. The record does not disclose any compelling circumstance which prevented her from approaching the authorities at the earliest available opportunity. The absence of any contemporaneous complaint, coupled with her continued association with the accused over a considerable period, constituted a formidable circumstance which cast a serious doubt upon the intrinsic reliability of the prosecution version.

7.11. The aforesaid circumstances, when viewed cumulatively and in conjunction with the surrounding factual matrix, persuaded the





Investigating Officer to conclude that the allegations did not inspire confidence and were beset with inherent improbabilities. This Court finds that the reasoning assigned in the negative Final Report is neither arbitrary nor speculative; rather, it is founded upon objective circumstances emerging from the investigation and a rational appreciation of human conduct and attendant probabilities. The factual features noticed by the Investigating Officer strike at the very substratum of the prosecution case and, in the considered opinion of this Court, deserved serious judicial consideration before a contrary view was adopted. The failure of the learned Magistrate to advert to these crucial aspects while disagreeing with the Final Report renders the order of cognizance legally vulnerable and unsustainable.

8. Having independently examined the record and the reasons assigned by the Investigating Officer in the negative Final Report, this Court is satisfied that the investigation was conducted in a fair and comprehensive manner and the conclusions reached therein were supported by material collected during investigation. At the very least, the learned Magistrate was under a legal obligation to address those reasons before choosing to differ therefrom. Since such an exercise has not been undertaken, the impugned order taking cognizance stands vitiated on account of non-consideration of relevant material and failure to record reasons for disagreement with the Final Report.

9. Consequently, this Court is left with no option but to hold that the order dated 28.05.2011 passed by the learned Chief





Judicial Magistrate, Bikaner, taking cognizance of offences under Sections 366, 376 and 384 IPC against the accused persons cannot be sustained in the eye of law. The appellate order dated 09.09.2014, being consequential in nature, is also liable to be set aside.

10. Accordingly, the miscellaneous petition preferred by the accused persons (CRLMP No.2330/2014) deserves acceptance and is hereby allowed. The order dated 28.05.2011 passed by the learned Chief Judicial Magistrate, Bikaner in FR No.60/2007 as well as the order dated 09.09.2014 passed by the learned Addl. Sessions Judge (Women Atrocities Cases), Bikaner in Criminal Appeal No.3/2013 passed are quashed and set aside. The negative Final Report submitted by the Investigating Agency stands accepted. The warrants of arrest issued against the accused are hereby recalled.

11. So far as the petition (CRLMP No.2195/2014) preferred by the complainant is concerned, the same is dismissed as discussed in preceding paras.

12. Stay petitions and all pending applications if any, shall stand disposed of.

(FARJAND ALI),J

14-Mamta/-