



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



S.B. Criminal Miscellaneous (Petition) No. 5716/2015
URN: CRLMP / 8877U / 2015



1. Ashok Kumar S/o Kaluram
2. Kaluram S/o Ramavtar,
3. Smt. Rampati w/o Kaluram
All resident of Jeenapur, Police Station Kotwali, District
Sawaimadhopur.
-----Petitioners

Versus

1. State Of Rajasthan
2. Smt. Uganti w/o Ashok Kumar D/o Ramkalyan, at present
resident of Shyampura, Police Station Malarna Dungar, District
Sawaimadhopur.
-----Respondent

For Petitioner(s) : Mr. Tarun Jain
For Respondent(s) : Mr. Manvendra Singh Shekhawat, PP

JUSTICE ANOOP KUMAR DHAND

Order

20/07/2026

1. By way of filing the instant criminal misc. petition, a challenge has been led to the impugned order dated 24.09.2015, passed by the Additional Sessions Judge (Special Judge) Sawaimadhopur, by which the revision petition submitted by the respondent No.2 was allowed and a direction has been issued to the Court below for taking cognizance against the petitioners under Section 498-A IPC.

2. Learned counsel for the petitioners submits that the respondent filed a complaint against the petitioners before the concerned Court, who sent the matter for investigation under



Section 156 Cr.P.C. to the Police Station Kotwali, District Sawaimadhopur, where an FIR was registered, however, after investigation Final Report (Negative) No.35/2007 was submitted by the Investigating Officer before the concerned Court. Counsel submits that the protest petition submitted by the respondent was rejected and Final Report (Negative) was accepted by the learned Chief Judicial Magistrate, Sawaimadhopur vide order dated 09.03.2011. Counsel submits that aggrieved by the aforesaid, a revision petition was submitted by the respondent before the Court of Additional Sessions Judge (Special Judge) Sawaimadhopur. The aforesaid revision petition was allowed by the Revisional Court vide impugned order dated 24.09.2015 and the order dated 09.03.2011 passed by the Chief Judicial Magistrate, Sawaimadhopur in FR No.35/2007 was quashed and set-aside and a direction was issued to the Court below for taking cognizance against the petitioners for the offence under Section 498-A IPC. Counsel submits that the Revisional Court has no such jurisdiction for issuing directions to the Trial Court to take cognizance against the petitioners, hence, the order impugned passed by the Revisional Court is not sustainable in the eyes of law and the same is liable to be quashed and set-aside.

3. In support of his submissions, counsel has placed reliance upon the judgment passed by this Court in the case of **Ramsingh and Ors. vs. State of Rajasthan and Anr.** reported in **2002 SCC OnLine Raj 1138**.

4. *Per contra*, learned Public Prosecutor opposed the prayer, but he is not in a position to controvert the submissions made by counsel for the petitioners.



5. Heard and considered the submissions.

6. Perusal of the record reveals that the First Information Report lodged by the complainant-respondent bearing No.81/2007 with the Police Station Kotwali, Distrit Sawaimadhopur resulted in Final Report (Negative) No.35/2007 and the said Final Report was accepted by the learned Chief Judicial Magistrate, Sawaimadhopur while rejecting the protest petition of the complainant-respondent vide order dated 09.03.2021. Thereafter, a revision petition was submitted by the complainant against the aforesaid order before the Revisional Court and the Revisional Court vide its impugned order dated 24.09.2025 has quashed the order passed by the learned Chief Judicial Magistrate and has issued directions to the Court below for taking cognizance against the petitioners under Section 498-A IPC.

7. In the considered opinion of this Court, the Revisional Court possesses no such power or jurisdiction to issue such directions in the light of Section 398 Cr.P.C. Section 398 Cr.P.C. reads as under:

“398. Power to orde rinquiruy.- On examining any record under section 397 or otherwise, the High Court or the Sessions Judge may direct the Chief Judicial Magistrate by himself or by any of the Magistrates subordinate to him to make, and the Chief Judicial Magistrate may himself make or direct any subordinate Magistrate to make, further inquiry into any complaint which has been dismissed under section [203](#) of Sub-Section (4) of section [204](#) or into the case of any person accused of an offence who has been discharged;

Provided that no Court shall make any direction under this section for inquiry into the case of any person who has been discharged unless such person has had an opportunity of showing cause why such direction should not be made.”





8. From a bare perusal of the aforesaid provision, it is *ipso facto* clear that the Revisional Court/Sessions Judge or Additional Sessions Judge cannot issue a direction to the Trial Court to take cognizance against the accused. If the Revisional Court was of the view that the order passed by the learned Trial Court was perverse, the matter could have been remitted to the Trial Court for passing fresh order on the basis of the evidence available on the record.

9. On this count alone, the order impugned passed by the Revisional Court dated 24.09.2015 is not sustainable in the eyes of law and is liable to be and is hereby quashed and set-aside.

10. The matter is remitted to the learned Chief Judicial Magistrate, Sawaimadhopur for conducting further inquiry in the protest petition submitted by the complainant and pass fresh orders on the Final Report (Negative) as well as the protest petition submitted by the complainant-respondent.

11. Needless to observe that fresh orders would be passed by the learned Magistrate, expeditiously as early as possible preferably within a period of six months from the date of passing of this order, as the FIR pertains to the year 2007 and more than 19 years have passed thereafter.

12. With the aforesaid observations, the instant criminal misc. petition stands disposed of. The stay application and all pending applications, if any, also stand disposed of.

(ANOOP KUMAR DHAND),J

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