



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



S.B. Criminal Miscellaneous (Petition) No. 961/2018  
URN: CRLMP / 1590U / 2018

Surendra Singh Bhati S/o Shri Bhagwat Singh Bhati, R/o A-36,  
Jawahar Nagar, Kota.

-----Petitioner

Versus

State Of Rajasthan Through Pp.

-----Respondent

|                   |   |                                                                           |
|-------------------|---|---------------------------------------------------------------------------|
| For Petitioner(s) | : | Mr. Jaswant Singh and<br>Mr. Namo Narayan Meena for<br>Mr. Harendra Singh |
| For Respondent(s) | : | Mr. Manvendra Singh Shekhawat, P.P.                                       |

**JUSTICE ANOOP KUMAR DHAND**

**Order**

**21/07/2026**

Reportable

1. The instant petition has been preferred against the impugned order dated 23.06.2017 passed by the Judicial Magistrate, Kota (North) whereby the application submitted by the petitioner under Section 197 CrPC has been rejected.
2. Aggrieved by the aforesaid order, the petitioner submitted a revision petition before the Court of Additional Sessions Judge No.3, Kota. However, the same was also rejected by the Revisional Court vide impugned order dated 12.01.2018.
3. Learned counsel for the petitioner submits that the petitioner was posted as Station House Officer at Police Station Dadabadi, District Kota at the relevant time. Counsel further submits that in connection with a criminal case bearing No. 173/2003, two accused persons namely Sudhir Jain and Shailendra Gautam were



arrested and produced before the Court of Additional Chief Judicial Magistrate No.2, Kota (for short "ACJM No.2, Kota") on 22.04.2003 for orders on their Police Custody remand (for short "PC remand"). However, the prayer for PC remand was rejected and an order was passed, directing the accused persons to be sent to judicial custody. Thereafter, the accused persons submitted bail applications for their release before the Court of ACJM No.2, Kota, who passed an order for production of the case diary before the Court on 23.04.2003. However, the case diary was not produced on the said date and the case was posted for the next date, i.e. 24.04.2003. Even on the next date, the case diary was not produced and the case was again posted for the following day, i.e. 25.04.2003. Counsel submits that on account of non-production of case diary despite repeated orders of the Court, the ACJM No.2, Kota issued a notice under Section 175 IPC to the petitioner asking him to submit his explanation/reasons for non-production of case diary before the Court. Learned counsel submits that the petitioner submitted his reply to the aforesaid notice, wherein it was stated that the petitioner never received any letter/communication from the Public Prosecutor for production of case diary before the Court, therefore, the case diary could not be produced on the above dates. He further submits that without considering the aforesaid explanation of the petitioner, cognizance was taken against him for the offence under Section 175 IPC by the ACJM No.2, Kota vide order dated 26.04.2003.

4. Learned counsel submits that the petitioner is a Public Servant and without seeking the prosecution sanction under Section 197 CrPC, cognizance cannot be taken against him for the



offence under Section 175 IPC. Under such circumstances, an application was submitted by the petitioner for dropping the proceedings initiated against him for the offence under Section 175 IPC, however, the said application was rejected by the Judicial Magistrate, Kota (North) and subsequently by the Revisional Court vide both the impugned orders.

5. Learned counsel submits that on account of non-communication of the order of summoning of case diary, the petitioner could not produce the same before the Court of ACJM No.2, Kota and the aforesaid order could not be complied with by the petitioner. Under these circumstances, the petitioner has not committed any offence under Section 175 IPC, which warrants his prosecution. Counsel submits that the petitioner is a Public Servant and therefore, unless and until an order of prosecution sanction is not passed against him under Section 197 CrPC, he cannot be prosecuted. However, this fact has been over looked by the Courts below by passing the orders impugned. Hence, interference of this court is warranted.

6. *Per contra*, Learned public prosecutor opposes the prayer.

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

8. Perusal of the record indicates that two accused persons namely Sudhir Jain and Shailendra Gautam were arrested, in connection with a criminal case bearing No. 173/2003, by the investigating officer of the Police Station Dadabadi, District Kota. Thereafter, a prayer for their PC remand was made before the ACJM No.2, Kota on 22.04.2003. The aforesaid prayer was rejected by the ACJM No.2, Kota and the accused persons were



sent to judicial custody. At this stage, the accused persons submitted bail applications for their release and the case was posted for 23.04.2003. On 23.04.2003, the case diary was called for by the Court of ACJM No.2, Kota, but the same was not produced before the Court, hence, the case was posted for 24.04.2003. Even on 24.04.2003, the case diary was not produced before the Court of ACJM No.2, Kota and thereafter, the case was posted for 25.04.2003.

9. Taking serious note of the aforesaid situation of non-production of case diary on two consecutive occasions, the ACJM No.2, Kota issued a notice against the petitioner for the offence under Section 175 IPC, for taking action against him for non compliance of the orders passed by the Court.

10. In response to aforesaid notice, a reply was submitted by the petitioner wherein he stated that on account of non communication of the orders dated 23.04.2023 and 24.04.2023, passed by the ACJM No.2, Kota, the case diary could not be produced by the petitioner before the Court. The aforesaid explanation of the petitioner was not considered by the Court of ACJM No.2, Kota and cognizance has been taken against him for the offence under Section 175 IPC.

11. For ready reference the provisions contained under Section 175 IPC are reproduced as under:-

**"175. Omission to produce document or electronic record to public servant by person legally bound to produce it.—**

Whoever, being legally bound to produce or deliver up any document or electronic record of any public servant, as such, intentionally omits so to produce or deliver up the same, shall be punished with simple impris-



onment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both,

or, if the document or electronic record is to be produced or delivered up to a Court of Justice, with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

#### Illustration

A, being legally bound to produce a document before a District Court, intentionally omits to produce the same. A has committed the offence defined in this section."

A bare perusal of the aforesaid provision clearly indicates that if a person who is legally bound to produce a document before the Court intentionally omits to produce the same, such act would tantamount to omission on his part and the same is punishable under Section 175 IPC.

12. Before proceeding under Section 175 IPC, it is imperative for the Court to give a reasonable opportunity to the person to produce the document. Despite such opportunity, if the person does not offer any reasonable excuse for such refusal, the Court can proceed against him. Therefore, it is incumbent on the part of the Court to inform the person that proceedings would be initiated against him under Section 175 IPC for not obeying the orders passed by the Court.

13. No *prima facie* evidence has been produced on the record to show that the aforesaid act of the petitioner, of non-production of the case diary on two consecutive dates, was intentional. In fact, the petitioner, in his reply to the notice issued against him, submitted that it was a bonafide error on his part due to non receipt of any communication/letter from the office of Public Prosecutor, directing him to produce the case diary before the



Court. No such correspondence, regarding writing of any letter or sending any wireless message to the petitioner, was produced on the record. In the absence of such *prima facie* evidence on the record, by no stretch of imagination, it can be believed that the petitioner had knowledge of the order summoning the case diary and that he deliberately and intentionally did not produce the same before the Court of ACJM No.2, Kota.

14. Apart from the above, no complaint was filed against the petitioner and the offence under Section 175 IPC is a bailable and non-cognizable offence. Furthermore, without filing any complaint against the petitioner, straightaway cognizance has been taken against him.

15. Section 175 IPC requires that a person shall have intentionally omitted to produce the documents. Therefore, *mens rea* is essential. If on account of any other reason than non-communication of the order of summoning of the case diary, the same was not produced for two days, such an act of the SHO should be treated as intentional act. If action is taken in such like manner against the Police officials, then there would be a flood of such kind of complaints against them.

Hence, it is imperative for the Court to provide a solution to the nagging issue of Police officials not obeying Court directions by not serving summons, executing warrants, producing documents etc. that plague the judicial system throughout the country and consequently, resulting in a huge number of cases remaining static without any progress.

The Station House Officers are the unsung heroes of the police force with the critical responsibility of maintaining law and



order in their jurisdictional areas. Their dedication, leadership and commitment to justice make them invaluable assets in the criminal justice system. They serve as the custodians of law and order, ensuring a safer and more secure society for all concerned.

The SHO is not just an administrator, he is the captain of the police station. The law requires him to steer the investigation so that it is lawful, timely and aimed at truth – not just closure.

The SHO is the head of the police station. He is responsible for the proper functioning of the police station and for conducting proper investigation. He cannot permit the investigation to be conducted in a callous and casual manner.

16. Law and order are the cornerstones of any civilized society, and ensuring their maintenance falls upon the shoulders of numerous dedicated professionals. One such integral figure is the SHO, who plays a pivotal role in the day-to-day affairs of a police station. There is a need to delve into the dynamic and challenging world of an SHO, exploring their responsibilities, daily life, and the impact they have on the jurisdictional areas they serve.

17. At the heart of every police station, the SHO stands as a symbol of authority and responsibility. An SHO is typically an experienced police officer who is entrusted with the overall management of the police station, overseeing a team of law enforcement operations within their jurisdiction. They act as a vital link between the community and the police department, playing a crucial role in maintaining public order and safety.

18. Looking to the facts involved in the instant matter, it is pertinent to look upon the responsibilities and duties that the SHOs behold.





19. The duties of SHOs are diverse and demanding i.e., from investigating crimes to maintaining public order, thus, their responsibilities encompass a wide range of tasks. Some key duties of the SHOs include:

- a) Maintaining law and order: the SHOs are responsible for the overall peace and security of their assigned area. They work diligently to prevent and control criminal activities, responding swiftly to incidents and ensuring the safety of the community.
- b) Leading investigations: when a crime occurs within their jurisdiction, the SHO takes charge of the investigation. They co-ordinate with detectives, gather evidence, interview witnesses, and build a strong case to bring criminals to justice.
- c) Managing police personnel: the SHOs oversee the performance of their subordinates, ensuring discipline, professionalism, and adherence to protocols. They allocate duties, conduct regular briefings. And provide guidance to the team.
- d) Community engagement: the SHOs foster positive relationships with the local community, organize awareness campaigns, public meetings, and community policing initiatives. They act as a bridge between the police and the public, addressing concerns and promoting a sense of trust and co-operation.

20. The SHO of a police station is duty bound to monitor and supervise the investigation carried out by the Investigating Officer of that police station. He must ensure that every investigation is





conducted fairly, expeditiously and in accordance with law, and upon completion of the investigation, a final report/charge sheet disclosing the offences, if any, is filed in every case before the jurisdictional court.

21. It is the duty of the SHO to see that the investigation is conducted properly and that the charge sheet is filed only after proper application of mind as to whether the material collected during investigation justifies filing of charge sheet for the offences alleged. Filing of charge sheet is not a mere formality.

22. If the petitioner failed to receive any communication for producing the case diary before the Court in the course of discharging his duties in a bona fide way, he cannot be held responsible under Section 175 IPC for his prosecution.

23. Considering the overall facts and circumstances of the case, the impugned orders passed by the Courts below are not sustainable in the eyes of law and the same are liable to be and are hereby set aside.

24. Accordingly, the instant petition is allowed. As a consequence thereof, the initial order dated 26.04.2003, passed by the ACJM No.2, Kota, taking cognizance against the petitioner for the offence under Section 175 IPC also stands quashed and set aside.

25. Before parting with this order, it is made clear that the SHOs and IOs are expected to obey the orders passed by the Court immediately after receipt of the same. If any lapse is found on their part, they will be taken to task,  
as per law.

**(ANOOP KUMAR DHAND),J**