

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

D.B. Review Application No.59/2022

in

D.B. Criminal Reference No.2/2020

Sumit Singhal

----Petitioner

Versus

1. State, Through Advocate General, Govt. Of Rajasthan, Jodhpur.
2. The Registrar General, Rajasthan High Court, Jodhpur.
3. State Of Rajasthan, Through Law Secretary, Dept. Of Law And Justice, Govt. Of Rajasthan, Sceretriate, Jaipur.
4. Union Of India, Through Secretary, Ministry Of Law And Justice, New Delhi 110001

----Respondents

For Petitioner(s)	:	Mr. Sumit Singhal, petitioner in person
For Respondent(s)	:	Mr. R.R. Chhapparwal, P.P.

**HON'BLE MR. JUSTICE SANDEEP MEHTA
HON'BLE MR. JUSTICE MANOJ KUMAR GARG**

Order

Order pronounced on : 29/06/2022

Order Reserved on : 26/05/2022

BY THE COURT : PER HON'BLE MEHTA, J.

The petitioner laying a self-proclamation of being a learned counsel having intellectual wisdom has filed the instant application under Rule 64 of the Rajasthan High Court Rules, 1952 seeking review of the judgment dated 03.12.2021 rendered by this court in D.B. Criminal Reference No.2/2020.

Scanned memorandum of the review application, which is supported by the affidavit of the petitioner Advocate, is being annexed with this order as living proof of the fact that the intellectual level of the petitioner is purely pedestrian and even a student of elementary class would be expected to have better knowledge of grammar and language. The application is riddled with grammatical and spelling errors, which cannot be expected from an Advocate desirous of appearing and pleading cases of litigants in the Apex Court of the State, i.e. the High court. We have highlighted a few of these mistakes in the memorandum of the review application. Looking to the nature of these blunders, we express serious reservation on the self-proclamation made by the petitioner in the application, where he brands himself to be a learned person.

The petitioner has broadly alleged in the review petition that the notice of the reference ought to have been published in the newspapers; Bar Associations all over the State should have been invited to address the court on the important legal issues; judicial members of sub-ordinate State judiciary should also have been intimated so that they could submit their views; the arguments advanced by the individual members of the bar were not noted in the judgment and their presence was marked collectively.

The petitioner appears to be peeved by non-inclusion of his name in the array of Advocates, whose presence is noted in the judgment dated 03.12.2021 and also the alleged non-

consideration of the written arguments submitted by the members of the Bar including the petitioner himself.

We may, at the outset, state that these hyper-ventilated claims of the petitioner are misplaced. The reference was forwarded to this court by the learned Sessions Judge, Pali under Section 395 of the CrPC. As per Section 395 (1) CrPC, which reads as below, a reference involving validity of any Act, Ordinance or Regulation or of any provision contained therein can be referred to the High Court by a court subordinate to it and the referral court would then be required to answer the reference.

"395. Reference to High Court.

(1) Where any Court is satisfied that a case pending before it involves a question as to the validity of any Act, Ordinance or Regulation or of any provision contained in an Act, Ordinance or Regulation, the determination of which is necessary for the disposal of the case, and is of opinion that such Act, Ordinance, Regulation or provision is invalid or inoperative, but has not been so declared by the High Court to which that Court is subordinate or by the Supreme Court, the Court shall state a case setting out its opinion and the reasons therefor, and refer the same for the decision of the High Court. Explanation.- In this section, "Regulation" means any Regulation as defined in the General Clauses Act, 1897 (10 of 1897), or in the General Clauses Act of a State."

There is no mandate in Section 395 CrPC that the views of the members of the Bar should unexceptionally be invited before answering the reference. Such course of action is adopted just in order to seek independent views from the members of the bar for the assistance of the court. Notifying the members of the Bar in a

reference of this nature is purely the discretion of the court to be exercised as a matter of prudence. Needless to say that the reference was forwarded to this court by the Sessions Judge, Pali and there was no party to the reference and thus, as per Rule 325 of the Rajasthan High Court Rules, there was no requirement to hear the matter in the open court and the reference could even have been considered and decided by the court by laying its own procedure. The members of the Bar were invited just to have their views and for seeking their assistance. Thus, we are of the firm view that the petitioner has no locus to dictate the terms of the procedure and the manner in which the reference should have been heard and decided.

The petitioner has cast serious aspersions on the Court at grounds Nos.(H) and (J) of the application supra, which are reproduced hereinbelow for ready reference :-

"H) That looking to aforesaid ground, impugned judgment passed in the reference is looking merely passed inside the Chamber not in open court, therefore, same ought to be rectified now.

J) That in the impugned judgment, it is mentioned that judgment was reserved on 30/07/2021 and pronounced on 03/12/2021, therefore, there is 5 months gap between reserving a judgment and delivering it."

These aspersions amount to browbeating and lowering the dignity of the court and are thoroughly contemptuous. The petitioner, being an Advocate enrolled with the Bar Council of Rajasthan is required to act as an officer of the court, but it seems

that he has scant respect for the court and total disregard for administration of justice.

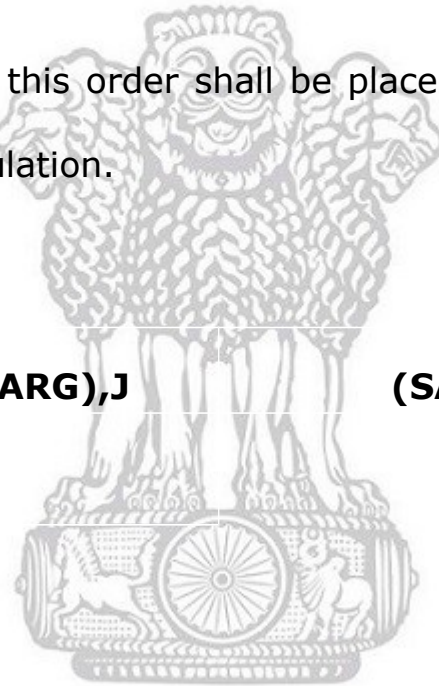
The review application is frivolous and mischievous on the face of the record. Therefore, the same is dismissed with a cost of Rs.50,000/-. The petitioner shall deposit the cost within a period of 30 days from today. The cost upon being furnished shall be appropriated in the funds of the Rajasthan State Legal Services Authority. In case the petitioner fails to deposit the cost as above, he shall be precluded from filing Vakalatnama and from appearing and arguing cases on behalf of litigants in any court within the State of Rajasthan.

A copy of this order shall be placed before Hon'ble the Chief Justice for circulation.

(MANOJ KUMAR GARG),J

(SANDEEP MEHTA),J

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IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JODHPUR

D.B. REVIEW PETITION NO.

IN

D.B. CRIMINAL REFERANCE NO. 02 OF 2020

IN THE MATTER OF

Sumit Singhal S/o Shri Rajkumar Singhal, Age-29 years, Resident of 99,
Kalali Mohalla, Chhotisadri, district-Pratapgarh at presently Section12,
D-Block, Kudi Bhagtasni, Jodhpur.

---PETITIONER

VERSUS

1. State of Rajasthan through Advocate General, Govt. of Rajasthan,
Jodhpur
2. The Registrar General, Rajasthan High Court at Jodhpur
3. State of Rajasthan through Law Secretary, Department of Law
and Justice, Govt. of Rajasthan, Scretariate, Jaipur
4. Union of India, through Secretary, Ministry of Law and Justice,
New Delhi110001

---RESPONDENTS

D.B. REVIEW APPLICATION UNDER RULE 64 OF
RAJASTHAN HIGH COURT RUELS 1952

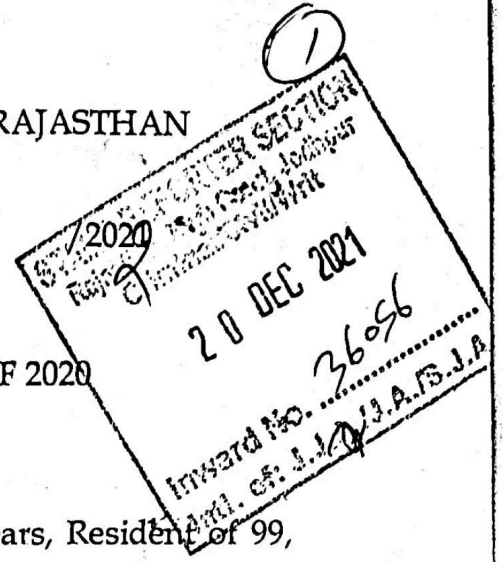
AND

IN THE MATTER OF IMPUGNED **ORDRE PASSED**
ORDER DATED 03/12/2021 PASSED IN
D.B.CRIMINAL REFERANCE NO. 02 OF 2020

TO,

THE HON'BLE CHEIF JUSTICE AND HON'BLE COMPANION JUDGES
OF HIGH COURT JUDICATURE FOR RAJASTHAN AT JODHPUR

JOATH COMMISSIONER
REVENUE, CRIMINAL, CIVIL
RAJ. HIGH COURT, JODHPUR



HUMBLE PETITION OF
ABOVE NAMED PETITIONERS

MAY IT PLEASE YOUR HONOUR

It is humbly and respectfully submitted as under :-

1. That a reference was forwarded from the learned Session Judge, Pali to this Hon'ble Court under Section 395 Cr.P.C. in respect of legal question arises from the Section 125 (3) Criminal Procedure Code.
2. That this Hon'ble Court registered the aforesaid reference and passed the order dated 06/01/2021 and directed as under :-

"Let notice of the reference may be published in the cause list inviting the counsels interested to make submissions in the matter" List the matter on 27.1.2021.

3. Therefore, in the view of aforesaid order of this Hon'ble Court kind attention of Hon'ble Members of Bar was drawn and request to assist the Court, therefore, a notice in daily cause list and sometimes in even **Supplementary** Cause list was published containing the complete detail of legal question arises before this Hon'ble Court in the reference matter. **It is further note** that any advocate want to assist the Court can submit the written Argument/submission over the legal question. Copy of notice inviting written submission from the learned members of Bar was published in Daily Cause listed dated 25/01/2021 is attached and marked as ANNEXURE P/1
4. That therefore, **petitioner was interest** to assist the court over the legal issue arise having greater interest of public **because it was arise from the Criminal Procedural Law, which affecting the** larger public who are litigants before the subordinate courts across the whole of State of Rajasthan.

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5. That present petitioner was first person who submitted the written documents dated 27/01/2021 related to his written submission/arguments to assist the court in the above matter. The written submission was filed before the Ragistry of this Hon'ble Court on 27/01/2021 and same was inwarded as 01/2021. Copy of written submission dated 27/01/2021 by the petitioner along with document showing inward number 01/2021 dated 27/01/2021 by the Ragistry of this Hon'ble Court are attached and marked as ANNEXURE P/2

6. that Petitioner was appeared 09/02/2021 before this Hon'ble Court and the Court drawn the order sheet therein presence of present petitioner was marked, that they the Court passed the order that the other Members of Bar are also free to address the court. Copy of Order Sheet dated 09/02/2021 is attached herewith and marked as ANNEXURE P/3

7. That matter was kept on 18/02/2021 for further hearing, present petitioner again appeared to assist the court on 18/02/2021 and his presence was marked on the order sheet dated 18/02/2021. Copy of Order Sheet dated 18/02/2021 is attached herewith and marked as ANNEXURE P/4

8. That petitioner was again appeared on 18/03/2021 and his prasance was marked even on the order sheet dated 18/03/2021. Copy of Order Sheet dated 18/03/2021 is attached herewith and marked as ANNEXURE P/5

9. That this Hon'ble Court in the aforesaid reference passed the order dated 03/12/2021 (impugned order) therein dated 03/12/2021 was related to pronouncement of Judgment (hereinaftere reffered as impugned Judgement) and Judgment was reserved on 30/07/2021, thereafter, all the cause of action to file the present review application are arises on the various counts, therefore present review application is being preferred on the following and amongst

the grounds:-

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GROUNDS

- A) That in the impugned judgment have many error appearant on the face of it and present application under the scope of the prevailing Rule 64 of Rajasthan High Court Rules 1952.
- B) in the whole impugned judgement is not written fairly as written submission filed by the petitioner on 27/01/2021 as well as submission made by the several learned members of Bar were not considered in impugned judgment, therefore, very purpose to initaite the reference in open court and invited the kind attention of Members of Bar itself defeated. Therefore, time, labourish hard work, intelletual wisdom of the learned advocates who came forward on the request to assist the this Court and who prepared the written submission in the reference matter as requested to submit the same to assit the court went in vain because in the whole of judgment no where mention about the written submission dated 27/01/2021 submitted by the present petitioner even though written argument/submission was inwards by the Ragistry as 01/2021.
- C) Because present petitioner is very first Member of Bar who came forward to assist the Court and prepared the written submission to provide the assistance in the reference matter having legal question of larger public interest and by using his intellutual wisdom, a way to complete justice was presented in his written submission/argument over the issue arises from the Section 125 (3) Cr.P.C. however this Hon'ble Court came to the conclusion as similar as provided by the present petitioner in his written argument dated 27/01/2021.
- D) That title of Case is mention in the impugned judgment is as In Ref. U/s 395 Cr.P.C. By District and Session Judge, Pali (Petitioner) Versus Unknown (Respondent) here, to place the word "Any other as respondent" insteat of "unknown" to give the wider scope of any person the contest the present his/her arguments as matter arises from the Criminal Procedure Code which affect the any person because of Cr.P.C. is applicable

No _____ Date _____ Time _____
 Sworn before me by _____
 S/o _____ R/o _____
 who is identified by _____

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through the judiciary, therefore, rights can be imparted to each and every person who is/are direct and indirectly going to affect.

- E) That looking to impact of reference proceeding over the public at large in the context of State of Rajasthan as it having controversy over the legal issue arises from the Cr.P.C. and even this Hon'ble Court in the conclusive para no. 12 of the impugned judgment directed to all the Magistrate/Family Courts across the State of Rajasthan, these kind of direction shows that reference under section 395 Cr.P.C. is arose from the District and Session Court Pali however, issue involved was in the interest of public at large, therefore, in the thoroughful consideration of present petitioner, submission might not be invited **confinely** from the Bar Association of High Court, Jodpur but submission over the reference issue ought to be invited from the various Bar Association established across the State of Rajasthan, even though Judicial Members of the Subordinate State Judiciary who wants to submit as voluntary. therefore, invitation through newspaper publication or through the notice towards to the concern bar Association(s). Therefore, same exercise may kindly be initiated at the fresh level stage.
- F) That in para no. 12 of the impugned judgment, Hon'ble Court provide the advice to appropriate Government to consider the suitable **amendenets** in Section 125 Cr.P.C. however no necessary opprotunity of being heard to the appropriate Governement was provided. In the humble opinion of present petitioner whenever the reference having legal issue arises from the Procedure Code whether it is Cr.P.C. **or whether C.P.C. appropriate Government must the complusary pary as respondent therefore, opporunity of being heard and issued of the larger interest interest of public can be drawn to him.** Here, it will the apposite to mention petitioner know the limit of the Hon'ble Court that they can not ordered the lagislature to enact the specific law/ amended however, notice **mandatorly** be served upon the appropriate Government as matter of present reference as matter of public interest. It is needless to say here that subject matter of **concurrst** list of

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(6)

seventh schedule of the Constitution of India, appropriate Government will be Union of India (through Law ministry) and **government** of concern State i.e. State of Rajasthan

- G) That bare looking to the impugned judgment, no where mention the specific argument advanced by the each learned Members of Bar however collectively their **prasance** are marked and their names are mentioned in the Para No. 4 of impugned judgment. Apart from in the whole of impugned judgment, it is no where mention about the written argument as submitted by the several learned members of Bar and **same was inwards the Registry** of this Hon'ble Court, therefore, the same judgment is without consideration of the written argument of the learned members of Bar as well as without consideration of written submission of **the learned present petitioner** who are also member of the High Court Bar Association Jodhpur, if aforesaid written submissions were considered by Hon'ble Court and much better result would come as conclusion which would be better beneficial for the larger interest of the society or public at large.
- H) That looking to aforesaid ground, **impugned judgment passed in the reference is looking merely passed inside the Chamber not in open court, therefore, same ought to be rectified now.**
- I) That in Rajasthan High Court Rules, 1952 rules are required to update with the time as said Rules, having to proper rule for what the actual procedure in the matter of reference arises under Section from the Criminal Procedure Code or arises from the Civil Procedure Code however, Rule 327 (3) having a few procedure in case of reference U/s 438, 307, 374, 341, 341 Cr.P.C. 1898 therefore, in the context of prevailing Cr.P.C. 1973 and no provision for reference u/s 395 Cr.P.C. therefore, Rules is required to update.
- J) That in the impugned judgment, it is mentioned that judgment was reserved on 30/07/2021 and pronounced on 03/12/2021, therefore, there is 5 months gap between reserving a judgment and deliverling it.

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K) Other grounds will be submitted at the time of arguments.

PRAYER

It is, therefore, most respectfully and humbly prayed that present review appliance may kindly be allowed and accepted and :-

- i. impugned order dated 03/12/2021 may kindly be recalled and written argument/submission filed on 27/01/2021 inwards as 01/2021 by the present petitioner may kindly be **thoroughful** considered and may kindly be included in rectify **judgement**;
- ii. **thoroughful** consideration may kindly be exercise over the written submission filed before the registry of this Hon'ble Court by many learned Members of the Bar **eariler** in the aforesaid reference proceeding which were not considered in the impugned judgment.
- iii. to place the word "Any other as respondent" **instead** of "unknown" to give the wider scope as reference matter as the matter of larger public interest itself;
- iv. to looking to impact of reference proceeding over the public at large in the context of State of Rajasthan as it having controversy over the legal issue arises from the Cr.P.C. submission over the reference issue ought to be invited from the various Bar Association established across the State of Rajasthan, even though Judicial Members of the Subordinate State Judiciary who wants to submit as voluntary through notice publication in newspapers or through the notice towards to the concern bar Association(s);
- v. notices of reference under section 395 Cr.P.C. may kindly be **serverd** upon appropriate Government so as to the reference having legal issue arises from the Procedure Code therefore, at least appropriate Government must be **complusary** party as respondent and to provide the opporunity of being heard as

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issued of the larger interest interest of public can be drawn.
can be drawn in their notice properly as matter of present
reference having as matter of public interest;

- vi. Respondent No. 2 Registrar General of this Hon'ble Court may kindly be directed to start the exercise to update the Rajasthan High Court Rules, 1952 as same having no proper rule for what the actual procedure in the matter of reference arises under Section 395 Criminal Procedure Code 1973 can be handled;
- vii. it is requested to pronounce the **afreh** rectify judgment in Open Court accordance and in compliance with the Rule of 85 and 86 of Rajasthan High court Rules 1952.

SUMIT SINGHAL (ADVOCATE)
(PETITIONER-IN- PERSON)

NOTES :-

- 1- No such application has been filed previously by the petitioner in the matter.
- 2- Due to non-availability of pie-papers readily, this stay petition is being preferred on these stout papers.
- 3- This petition has been typed by my Private Steno.
- 4- matter is subject to jurisdiction of Hon'ble Rajasthan High Court at Jodhpur.
- 5- Internal and external pagination has been done
- 6- Email id is sumitsupap@gmail.com and Mobile : 8233205307

Presented By Mr. *Sumit*

18 DEC 2021

Stamp Reporter
Rajasthan High Court

SUMIT SINGHAL (ADVOCATE)
(PETITIONER-IN- PERSON)

OATH COMMISSIONER
REVENUE; CRIMINAL, CIVIL
RAJ. HIGH COURT, JODHPUR

THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

D.B. REVIEW PETITION NO.

/2021

IN

D.B. CRIMINAL REFERANCE NO. 02 OF 2020

PETITIONER

RESPONDENTS

SUMIT SINGHAL

VERSUS

STATE OF RAJ. & ORS.

AFFIDAVIT IN SUPPORT OF WRIT PETITION

I, Sumit Singhal S/o Shri Rajkumar Singhal, Age-29 years, Resident of 99, Kalali Mohalla, Chhotisadri, district-Pratapgarh at presently Section12, D-Block, Kudi Bhagtasni, Jodhpur do hereby take oath in the name of God and state as under:

1. That I am petitioner in the above mention case titled and well conversant with facts giving rise to the instant writ petition. therefore, I am competent to swear this affidavit.
2. That all contents of this Petition are true and correct according to my personal knowledge.
3. That I have gone through entire Petition and fully understood the same.

self
IDENTIFIED BY



DEPONENT

VERIFICATION

I, the above named deponent do hereby verify that the contents of paras 1 to 4 of my above affidavit are true and correct as per my personal knowledge. No part of it is either false and nothing has been concealed. SO HELP ME GOD.


DEPONENT

No. 2109 Date 10/12/21 Time 10:30 AM
Sworn by Sumit Singhal
S/O. Rajkumar Singhal
who is identified by self


OATH COMMISSIONER
REVENUE, CRIMINAL, CIVIL
RAJ. HIGH COURT, JODHPUR

THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

D.B. REVIEW PETITION NO. /2021

IN

D.B. CRIMINAL REFERANCE NO. 02 OF 2020

PETITIONER

RESPONDENTS

SUMIT SINGHAL

VERSUS

STATE OF RAJ. & ORS.

AFFIDAVIT IN SUPPORT OF DOCUMENTS

I, Sumit Singhal S/o Shri Rajkumar Singhal, Age-29 years, Resident of 99, Kalali Mohalla, Chhotisadri, district-Pratapgarh at presently Section12, D-Block, Kudi Bhagtasni, Jodhpur do hereby take oath in the name of God and state as under:

- 1. That I am petitioner in the above mention case titled and well conversant with facts giving rise to the instant writ petition. therefore, I am competent to swear this affidavit.
- 2. That all contents of this Writ Petition are true and correct according to my personal knowledge.
- 3. That the documents attached herewith are the true/certified copies of the respective originals.

self IDENTIFIED BY

DEPONENT

VERIFICATION

I, the above named deponent do hereby verify that the contents of paras 1 to 3 of my above affidavit are true and correct as per my personal knowledge. No part of it is either false and nothing has been concealed. SO HELP ME GOD.

No. 2020 Date 12/11/2020 Time 11:30 AM
 Sworn before me by Sumit Singhal
 S/o. Shri Rajkumar Singhal R/o. 99, Kalali Mohalla, Chhotisadri, Prapatgarh
 who is identified by [Signature]

DEPONENT

OATH COMMISSIONER
 REVENUE, CRIMINAL, CIVIL
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