



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

S.B. Civil Writ Petition No. 7482/2019

Neeraj Jain S/o Shri Bhanwara Lal Jain, Aged About 35 Years,
R/o Takiyon Ki Badli Bhindar, District Udaipur.

----Petitioner

Versus

1. State Of Rajasthan, Through The Governing Secretary, Law Department, Government Of Rajasthan, Secretariat, Jaipur.
 2. The Addl. Sessions Judge (Women Atrocities Cases), Udaipur.
 3. Prem Singh Panwar, Assistant Public Prosecutor (App), Women Atrocities Cases, Udaipur.
- Shreejee Bhavsar, R/o P-57/iii Floor South Extension-II, New Delhi.

----Respondents

For Petitioner(s)	:	Mr. Sanjay Mathur assisted by Mr. Sachin Mathur
For Respondent(s)	:	Mr. S.K. Bishnoi, PP Mr. Anil Joshi

HON'BLE MR. JUSTICE VINIT KUMAR MATHUR
Order

21/04/2022

The present writ petition has been filed against the order dated 30.01.2019 (Annex.4) passed by the Secretary to the Government, Govt. of Rajasthan, Department of Law, whereby, the file of Sessions Case No. 205/2015 arising out of the FIR No. 58/2003 was transferred to Shri Prem Singh Panwar, who is the regular Additional Public Prosecutor in the Court of Additional Sessions Judge (Women Atrocities Cases), Udaipur.

Learned counsel for the petitioner submits that the respondents vide order dated 28.03.2018 appointed Shri Shreejee



Bhavsar as the Special Public Prosecutor in Sessions Case No. 205/2015 arising out of FIR No. 58/2003 registered at Mahila Thana, Udiapur. Learned counsel further submits that Shri Shreejee Bhavsar was appointed as Special Public Prosecutor taking into consideration the special circumstances of the case and while he was conducting the case, the files have been ordered to be transferred to Shri Prem Singh Panwar who is working as the Additional Public Prosecutor without revoking the order in favour of Shri Shreejee Bhavsar. He, therefore, prays that this writ petition may be allowed and Shri Shreejee Bhavsar may be allowed to continue to appear in the case as Special Public Prosecutor.

A reply has been filed by the State, wherein, it is stated that Shri Prem Singh Panwar is a regularly appointed Public Prosecutor and he is a competent person to represent the case before the learned trial court. The appointment of Shri Prem Singh Panwar is in consonance with the provisions of law.

Learned Public Prosecutor further submits that it is the prerogative of the State Government to appoint the regular Public Prosecutor for taking care the best interest of the State Government. He further submits that if Shri Prem Singh Panwar is allowed to contest the matter, no prejudice will be caused to the petitioner.

I have considered the submissions made at the Bar and gone through the pleadings filed before this court.

The State Government after having taken into consideration the special circumstances of the present case, had appointed Shri Shreejee Bhavsar to appear as Special Public Prosecutor in the case vide order dated 28.03.2018. While this order is still in force,



a direction has been issued to transfer the files of this case to Shri Prem Singh Panwar who is regularly appointed Additional Public Prosecutor in the court of Additional Sessions Judge (Women Atrocities Cases), Udaipur. The action of the State Government in just directing the Special Public Prosecutor to appear in the case after taking the files from Shri Shreejee Bhavsar, does not appear to be just, proper and correct. More particularly, when the order of appointment of Shri Shreejee Bhavsar dated 28.03.2018 has not been revoked.

In this view of the matter, the writ petition is allowed and the order dated 30.01.2019 passed by the respondent No.1 is quashed and set aside and Shri Shreejee Bhavsar is allowed to appear in the case in pursuance of the order issued by the State Government on 28.03.2018.

It is made clear that if, the State Government revokes the order dated 28.03.2018 (Annex.1), then Shri Shreejee Bhavsar shall not appear in the case as Special Public Prosecutor and the State will be free to appoint any appropriate counsel to represent the State in this case before the court of Additional Sessions Judge (Women Atrocities Cases), Udaipur.

सत्यमेव जयते (VINIT KUMAR MATHUR),J

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