



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

S.B. Criminal Misc(Pet.) No. 1055/2024

Chandrashekhar S/o Shri Ramesh Kilaaniya, Aged About 49
Years, R/o Ajmer City, Dist. Ajmer, Presently Sho, P.s. Begu,
Dist. Chittorgarh (Raj.).

-----Petitioner

Versus

1. State Of Rajasthan, Through Pp
2. Ijlaal Ahmed S/o Iqbal, B/c Muslim, R/o Bhainsroadgarh,
Dist. Chittorgarh (Raj.).

-----Respondents

For Petitioner(s) : Mr. Yogendra Singh Charan
For Respondent(s) : Mr. Gaurav Singh, PP

HON'BLE MR. JUSTICE ARUN MONGA

Order (Oral)

24/07/2024

1. Petitioner herein is aggrieved of the order dated 04.01.2024, passed by the learned Additional Sessions Judge, Begu, Chittorgarh in Criminal Revision Petition No.65/2021, dismissing the revision petition and affirming the order dated 10.03.2015 passed by the learned Judicial Magistrate, Rawatbhata whereby cognizance for the offences under Sections 323 and 341 IPC was taken against the petitioner.

2. The facts in brief are that the respondent No.2 filed a complaint against the petitioner alleging aforesaid offences before the learned Magistrate on 28.04.2009. The learned Magistrate took cognizance thereof vide an order dated 10.03.2015. Feeling aggrieved, the petitioner preferred revision petition before the learned Sessions Court, which too was dismissed. Hence, this petition.



3. Learned counsel for the petitioner contends that the petitioner is a Government servant and is currently serving as Assistant Sub-Inspector in Rajasthan Police and cognizance of the offences has been taken against him by the learned Magistrate on a private complaint without seeking the mandatory sanction from the Government. Further, he would point out that even the complaint, which was filed before the learned Magistrate is barred under Section 468 Cr.P.C. as the alleged incident pertains to the year 2009. The impugned cognizance order was passed in the year 2015, after a lapse of 6 years.

4. On a Court query, learned Public Prosecutor concedes that the cognizance order was indeed passed after a lapse of 6 years. The said fact is since not disputed, I see no reason why the benefit of Section 468 Cr.P.C. be not extended to the petitioner. Apart therefrom, I find merit in the other argument advanced by the learned counsel for the petitioner that prior sanction ought to have been obtained before proceeding for trial to prosecute the petitioner.

5. On both counts, the complaint was not maintainable before the learned Magistrate.

6. In the premise, the instant petition is allowed. Both the impugned orders are quashed and the complaint filed before the learned Magistrate is dismissed.

7. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA),J

41-skm/-

Whether fit for reporting : Yes / No

