RAJASTHAN HIGH COURT
सत्यमेव जयते

HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JODHPUR

S.B. Criminal Revision Petition No. 1490/2019
CNR: RJHC010740682019 | URN: CRLR / 3889U / 2019

Rajasthan High Court
सत्यमेव जयते
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1. Mohammad Junaid S/o Abdul Jabbar, Aged About 28 Years, I.a.s. (On Probation) Currently Posted At Tehsildar (Revenue), Anoopgarh, District Shri Ganganagar, Raj.
2. Rampal Meena S/o Dhira Ram, Aged About 58 Years, Was Posted At Tehsildar (Revenue) Anoopgarh, Dist. Shri Ganganagar, Raj.

----Petitioners

Versus

Shiv Kumar, Additional District And Session Judge, Anoopgarh, District Shri Ganganagar, Raj.

----Respondent

For Petitioner(s) : Ms. Manisha Phophaliya
For Respondent(s) : None Present

HON'BLE MR. JUSTICE FARJAND ALI

Order

REPORTABLE

DATE OF CONCLUSION OF ARGUMENTS : 13/10/2026
DATE ON WHICH ORDER IS RESERVED : 13/10/2026
FULL ORDER OR OPERATIVE PART : Full Order
DATE OF PRONOUNCEMENT : 19/11/2026

BY THE COURT:-

1. The instant revision petition under Section 397 and 401 of the CrPC has been preferred on behalf of the petitioners against the order dated 17.10.2019 passed by learned Additional Chief Judicial Magistrate, Anoopgarh whereby he took cognizance of the offence and issued process against the accused-petitioners on the complaint moved by the respondent in Criminal Case No.493/2019 under Sections 166 and 120-B of IPC.

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2. The brief facts of the case are that, vide order dated 17.10.2019 passed in Execution Application No. 15/2019, the learned Additional District and Sessions Judge, Anoopgarh, directed registration of a complaint against the petitioners under Sections 166 and 120-B IPC for alleged non-compliance of the order dated 18.02.2019 passed in Civil Suit No. 06/2008. Pursuant thereto, a complaint was lodged and, on the very same day, the learned Additional Chief Judicial Magistrate, Anoopgarh, took cognizance against the petitioners and issued process under the aforesaid provisions. Aggrieved by the said order, the petitioners have preferred the present criminal revision petition challenging its legality, correctness and propriety.

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3. Learned counsel for the petitioners submitted that the learned Magistrate erred in taking cognizance under Sections 166 and 120-B IPC without obtaining the requisite sanction under Section 197 Cr.P.C., as the acts alleged were intrinsically connected with the discharge of their official duties. It was further contended that the essential ingredients of Section 166 IPC are conspicuously absent, as the petitioners had merely submitted their reply explaining the legal and factual impediments in compliance with the directions issued by the executing court. Learned counsel argued that no wilful disobedience or deliberate violation of any lawful direction could be attributed to the petitioners and that the complaint does not disclose a prima facie case against them. Accordingly, it was prayed that the impugned order of cognizance be quashed and set aside.

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4. Heard learned counsel appearing on behalf of the petitioner and perused the material available on record.

5. Upon consideration of the submissions advanced by learned counsel for the petitioners and upon perusal of the material available on record, this Court finds that the prosecution, as instituted against the petitioners, does not prima facie disclose the essential ingredients of the offences alleged. It is borne out from the record that Petitioner No. 1 is an IAS officer who had been deputed to Sri Ganganagar for a period of fifteen days as part of his training and was assigned the charge of Tehsildar during the said period, alongside the regular Tehsildar. The learned Additional District Judge, vide judgment and decree dated 18.02.2019, had decreed the civil suit for declaration and issued certain consequential directions, including directions to the Sub-Registrar to append appropriate remarks on the concerned document, to the Tehsildar to effect mutation of the land in favour of the plaintiff and to submit a compliance report before the decreeing Court. Directions were also issued in relation to the possession of the suit property.

5.1 The execution proceedings came to be instituted on 28.02.2019, wherein the Tehsildar was directed to furnish a report before the executing Court. Subsequently, vide notice dated 04.10.2019, an explanation was sought from the then Tehsildar, Shri Rampal Meena (Petitioner No. 2). In the interregnum, Petitioner No. 1, being a trainee IAS officer temporarily holding the charge of Tehsildar, forwarded a response on the

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administrative side, explaining the circumstances and expressing his lack of awareness of the relevant factual position. His specific stand was that he had not been afforded an opportunity of hearing before any stringent direction was contemplated against him.

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6. In the aforesaid factual backdrop, the most conspicuous omission in the prosecution case is the absence of the requisite mens rea. Section 166 IPC does not criminalise every act of non-compliance or every perceived lapse on the part of a public servant. Its invocation necessarily requires a conscious disobedience of a direction of law, coupled with the intention to cause injury to a person or knowledge that such injury is likely to ensue. The mere forwarding of a response explaining the administrative and factual position, without anything more, cannot be elevated to the level of wilful disobedience with the requisite criminal intent. No material has been brought to the fore to indicate that either of the petitioners deliberately acted in defiance of the decree with an intention to cause injury to the decree-holder.

6.1 This Court is also unable to discern from the allegations any foundational material constituting a criminal conspiracy within the meaning of Section 120-B IPC. The allegation of conspiracy appears to be an inference without any discernible factual foundation. Criminal liability cannot be fastened merely because the directions contained in a civil decree have not been complied with to the satisfaction of the executing Court. A civil obligation,

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even if allegedly breached, does not automatically metamorphose into a criminal offence.

6.2 So far as the protection envisaged under Section 197 Cr.P.C. is concerned, the question whether the acts complained of bear a reasonable nexus with the discharge of official duties would have to be examined in the light of the principles enunciated by the Hon'ble Supreme Court in **Devinder Singh & Others v. State of Punjab** reported in (2016) 12 SCC 87. The protection is neither an absolute immunity nor a licence to commit an offence; however, where the alleged act has a reasonable connection with the discharge of official functions, the statutory safeguard cannot be lightly disregarded. In the present matter, the issue of sanction also assumes significance, particularly in view of the official capacity in which the petitioners were acting. Nevertheless, this Court finds that the prosecution fails to cross the more fundamental threshold of disclosing the ingredients of the offences alleged.

6.3 In the case of **Prakash Rajpurohit v. Motor Accident Claims Tribunal**, decided in S.B. Criminal Misc. Petition No. 663/2020, the Coordinate Bench of this Court has held that the prosecution of a public servant for an offence under Section 166 IPC, without obtaining the requisite sanction under Section 197 Cr.P.C., is impermissible in law. For ready reference, the relevant paragraph of the judgment is reproduced hereinbelow:

> "I am of the firm opinion that the Presiding Officer should have remained cognizant of this mandatory legal requirement before directing filing of complaints

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against the District Collector. It cannot be disputed that before taking cognizance on a complaint filed against a public servant for the offence under Section 166 IPC, requirement of prosecution sanction under Section 197 Cr.P.C. is sine-qua-non and without such sanction, prosecution of the public servant concerned is impressible. Admittedly, in the cases at hand, no sanction was sought for before directing prosecution of the present petitioner. Thus, the impugned orders taking cognizance against the petitioner are absolutely illegal and amount to a sheer abuse of process of law and cannot be sustained."

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7. The criminal process cannot be permitted to become an instrument for converting every administrative omission, disagreement or alleged non-compliance with a judicial direction into a penal proceeding. The majesty of a civil decree is undoubtedly required to be respected and its execution must proceed in accordance with law; nevertheless, the coercive machinery of criminal law must be invoked only where the necessary statutory ingredients are demonstrably present.

8. In view of the foregoing discussion, this Court is of the considered opinion that the order dated 17.10.2019, taking cognizance against the petitioners under Sections 166 and 120-B IPC, cannot be sustained in the eyes of law. The same suffers from a fundamental infirmity and warrants interference by this Court in exercise of its revisional jurisdiction.

9. Accordingly, the criminal revision petition is allowed. The impugned order dated 17.10.2019, to the extent it relates to the present petitioners, is hereby quashed and set aside. It is, however, clarified that the proceedings in the execution application

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shall remain undisturbed and shall continue in accordance with law.

10. Stay petition and all pending applications, if any, stands disposed of.

(FARJAND ALI),J

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