



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

S.B. Criminal Misc(Pet.) No. 5079/2024

1. Madan Lal S/o Nanuram, Aged About 72 Years, R/o Ward No. 8, Naliyabas, Sujangarh, Churu, District Churu, Rajasthan.
2. Vimal Kumar S/o Indrachand Mali, Aged About 40 Years, R/o Behind Jain Temple, Ladnu, District Didwana-Kuchaman, Rajasthan.
3. Balchand S/o Beghraj Mali, Aged About 65 Years, R/o Ward No. 5 Naliyabas, Sujangarh, Churu, District Churu, Rajasthan.
4. Nemichand S/o Dungarmal Mali, Aged About 78 Years, R/o Ward No. 8, Naliyabas, Sujangarh, Churu, District Churu, Rajasthan.
5. Moolchand S/o Shankarlal, Aged About 77 Years, R/o Near Railway Station, Sujangarh, Churu.
6. Begaram S/o Meghara Mali, Aged About 72 Years, R/o Behind Fort, Sandwa, Bidasar, Churu, District Churu, Rajasthan.

----Petitioners

Versus

1. State Of Rajasthan, Through Pp
2. Kanta D/o Ramlal, R/o Ward No.7, Sardarshahar, Churu, District Churu, Rajasthan.

----Respondents

For Petitioner(s) : Mr. Pravin Vyas
For Respondent(s) : Mr. S.S. Rajpurohit, P.P.

HON'BLE MR. JUSTICE ARUN MONGA

Order

02/08/2024

1. Instant Criminal Misc. Petition is under Section 482 of CrPC for quashing of order dated 11.07.2024 passed by learned Judicial Magistrate, Sardarshahar in Criminal Case No.677/2015 (105/2016), vide which learned court below issued an arrest warrant against the petitioner.
2. Briefly speaking the relevant facts as pleaded in the petition are that the complainant – Kanta got married to one Sunil on 21.01.2005. After marriage, she started residing at her



matrimonial home. Her husband Sunil Kumar, father-in-law Madan Lal, mother-in-law Manju Devi, brother-in-law Dungarmal and sister-in-law Handa allegedly started harassing her with demands of dowry.

2.1 With these allegations, an FIR No.413/2023 was registered at P.S. Sardarshahar, District Churu under Sections 451, 354, 143, 365/511 of IPC and after investigation, a negative final report was filed by the Investigation Officer

2.2 The complainant herself did not object to filing of the Final Report. However, it is so stated that a protest petition was filed by her counsel and learned trial court took cognizance against the petitioners vide an order dated 18.11.2013. Bailable warrants were issued against the petitioners.

2.3 Subsequently, vide the impugned order dated 11.07.2024, the learned trial court issued arrest warrants against the petitioners by taking recourse under Section 87 of Cr.P.C. Learned trial court has fixed next date on 11.09.2024 for compliance of the arrest warrant. Fearing arrest, this misc. petition has been filed.

3. In the aforesaid backdrop, I have heard learned counsel for the petitioner and the learned Public Prosecutor and perused the case file.

4. Learned counsel for the petitioner *inter-alia* argues that the Investigating Officer had considered each and every aspect of the allegations levelled against the petitioners. It was thereafter, that the Final Report was filed. Impugned order dated 11.07.2024 passed by the learned trial court is not sustainable and deserves to be quashed and set aside.



5. He argues that the summons sent earlier were also not served on him.

6. It transpires, that after investigation, a negative final report was filed qua the petitioner. It is only on filing of the protest petition that petitioners were arrayed as an accused by the learned trial court and issued summons for their appearance.

7. It appears to me that the learned trial court in a very mechanical manner has issued non-bailable arrest warrants against the petitioners without proper application of mind.

8. Learned counsel for the petitioner has rightly canvassed that the learned trial court ought to have given one more opportunity to the petitioners to cause appearance by issuing bailable warrant, instead of directly issuing non-bailable warrant upon his failure to be personally present.

9. I am of the opinion that personal liberty of a citizen cannot be taken so lightly as to mechanically pass orders to arrest him, merely for production in the court, unless there is a deliberate attempt to evade court process.

9. In the premise, petitioners are directed to cause appearance before the learned trial court and their non-bailable arrest warrants are converted into bailable warrants.

10. Disposed of accordingly.

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

(ARUN MONGA),J

73-AnilKC/-