

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

S.B. Criminal Misc(Pet.) No. 5928/2024

1. Chatar Singh Chouhan S/o Ratan Singh Chouhan, Aged About 71 Years, R/o 71- Shree Bhairway Nagar, Pratap Nagar, Bedwas, Udaipur
2. Sawroop Singh S/o Magej Singh, Aged About 28 Years, R/o Ward No. 03, Khara, P.s. Jamsar, Dist. Biikaner (Raj.) At Present R/o City Palace, Udaipur

----Petitioners

Versus

State Of Rajasthan, Through Pp

1. Ayushi Sharma W/o Shri Siddharth Shnakar Sharma, R/o Bhagat Singh Colony, Rajkiya Awas, Newai, Dist. Tonk

----Respondents




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For Petitioner(s)	:	Mr. Puneet Jain, Sr. Adv. assisted by Mohd. Aslam Naushad. Mr. Sheetal Kumbhat.
For Respondent(s)	:	Mr. Anand Purohit, Sr. Adv. assisted by Mr. Ranjeet Joshi, for complainant. Mr. Vikram Singh Rajpurohit, PP. Mr. R.S. Bhati, AGA. Mr. Himanshu Singh, SHO (P.S.- Sukher, District Udaipur) Mr. Harish Chandra Sanadhya, ASI / I.O. (P.S.-Sukher, District Udaipur)

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**HON'BLE MR. JUSTICE ARUN MONGA**

**Order (oral)**

**09/10/2024**

1. Quashing of an FIR No.0452/2024 dated 13.08.2024 registered at Police Station Sukher, Udaipur under Sections 191(2), 115(2), 126(2), 351(2)/(3) and 74 of BNS, 2023 is sought herein.
2. Petitioner No.1 is a 71 years old senior citizen and works as one of the security personnel at the Eklingji temple, Kailashpuri and so is petitioner No.2, a security guard in the same temple.

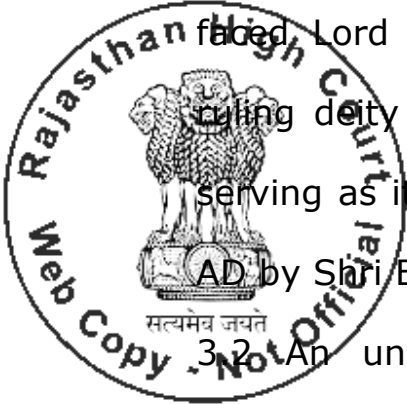
Complainant is wife of a serving Judicial officer in the State of Rajasthan.

3. Factual background as pleaded in the petition herein is as follows:

3.1 The Eklingji Temple at Kailashpuri (Udaipur) is an ancient temple believed to be over 1,300 years old. The main deity, a five-faced Lord Shiva carved from black stone, is regarded as the ruling deity of the former Mewar State, with the erstwhile kings serving as its custodians. The temple was built in the 8th century AD by Shri Bappa Rawal.

3.2 An unfortunate incident occurred on August 13, 2024, involving the complainant's husband, Shri Siddharth Shankar Sharma, a Senior Civil Judge and Additional Chief Judicial Magistrate posted at Newai, Tonk. However, claiming himself to be a High Court judge, he allegedly intruded into the queue of devotees. Notwithstanding, when he was asked to follow the discipline, he became rather abusive. He also engaged in a heated exchange with the temple security. He even attempted to assault the security personnel, leading to a scuffle, which was captured on the temple's CCTV.

3.3 It is pleaded further that reviewing the CCTV footage shows that Shri Sharma instigated the incident while visiting the temple with his family and friends. It is stated that the temple administration was not informed of his visit in advance; had they been notified, special arrangements could have been made for his visit. Despite the large number of devotees due to the Savan month, he chose to jump the queue which resulted in the unsavory incident as above.



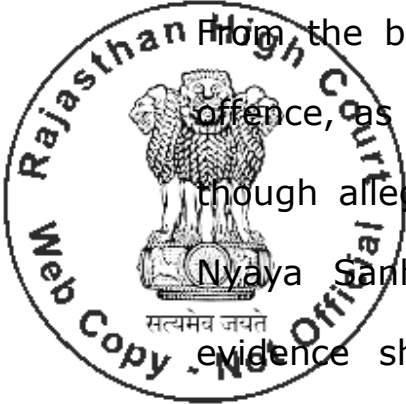
3.4 It is pleaded that subsequently with an intent to discredit the temple administration, Shri Sharma, through his wife Smt. Aayushi Sharma, lodged the false FIR which is assailed herein.

4. In light of the aforesaid factual narrative, learned Senior counsel appearing for the petitioners argues that the petitioners have been falsely implicated on the basis of baseless allegations.

From the bare perusal of the FIR and the available record, no offence, as alleged is made out against the petitioners. The FIR though alleges offenses under various sections of the Bharatiya Nyaya Sanhita, 2023, including rioting and assault, but the evidence shows that the alleged incidents did not occur as described. He relies on pen drive containing the CCTV footage and video recordings in support of his contention that the FIR is frivolous and motivated by ulterior intentions.

4.1 He submits that a bare perusal of the FIR and available records shows that no offense, as alleged, is substantiated against the petitioners. Even if the allegations in the FIR are accepted at face value, they do not *ex-facie* constitute any offense.

4.2 Learned Senior Counsel for petitioner would urge that the complainant's husband, misusing his position as a Senior Civil Judge and Additional Chief Judicial Magistrate, has got a false FIR registered under Sections 191(2) (Rioting), 115(2) (Voluntary Causing Hurt), 126(2) (Wrongful Restraint), 351(2) and 351(3) (Intimidation), and Section 74 (Assault or use of criminal force against a woman with intent to outrage her modesty). He contends that the FIR is based on false and fabricated facts, due to a personal vendetta on being merely asked to wait in the queue. The Judicial Officer has put his wife on the forefront to act proxy for him and she has instituted criminal proceedings on the



asking of her husband. The CCTV footage would show that the entire incident was instigated by Shri Siddharth Shankar Sharma, who was the aggressor. He would contend that the arrogant and unbecoming conduct of the judicial officer is recorded in the video footage placed on record wherein he is very boldly claiming himself to be a serving High Court Judge of Rajasthan just to

intimidate and intimidate the management officials of the temple.

4.3 He would also argue that the CCTV footage also shows that female security personnel accompanied the complainant throughout the incident, and no male guard approached her inappropriately. Therefore, the FIR allegations are completely baseless and fabricated and fail to provide any basis for the alleged offenses under Sections 191(2) (Rioting), 115(2) (Voluntary Causing Hurt), 126(2) (Wrongful Restraint), 351(2) and 351(3) (Intimidation), and Section 74 (Assault or use of criminal force against a woman).

5. Per contra, learned Public Prosecutor submits that the investigation in the FIR is complete. Pursuant thereto, a factual report dated 08.10.2024 has also been prepared. He tenders the same in the course of hearing and the same is taken on record. It has been concluded therein that only Sections 115(2), 126(2), 351(2)/(3), 324(6), 117(2) of BNS, 2023 [corresponding Sections 323, 341, 506, 440 and 325 of IPC] are attributed in the present case and rest of the penal Sections have been dropped. He submits that the charge sheet is proposed only against five persons namely:

- (i). Mr. Swaroop Singh Sisodiya
- (ii). Mr. Mangal Singh Chundawat
- (iii). Mr. Gopal Singh Gaur



(iv). Mr. Chatar Singh Chouhan

(v). Mr. kalu Singh

He would submit that keeping the aforesaid in mind, petition be dismissed.

6. While learned senior counsel appearing for the complainant submits that no interference of this Court is warranted in view of

the factual report submitted by the prosecution and the law will take its own course.

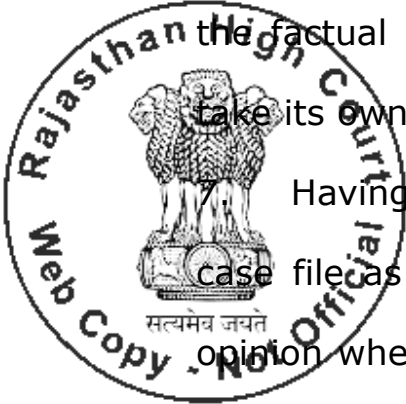
Having heard the rival contentions and after perusal of the case file as well as the contents of the FIR herein, I am of the opinion whether or not allegations leveled by the complainant are false or not is a matter of trial and shall be decided by the competent trial Court upon filing of the charge sheet which is proposed as per the factual report, *ibid*.

8. However, I am of the view that no ingredients of Section 117(2) of BNS (corresponding Section 325 of IPC) are made out. Reasons are not far to seek. Let us see how. First and foremost, the contents of the FIR be seen and for ready reference, the translated version of the FIR is as below:-

*“I am writing to inform you that I, the applicant, visited the Ekling Nath Ji temple in Kailashpuri with my husband for his treatment and well-being. At approximately 12:30 PM, as we were entering the temple premises, a guard with two stars on his uniform spoke to us in a rude and derogatory manner, using offensive language. My husband, who was already in poor health, attempted to reason with the guard, suggesting that they speak peacefully. However, the guard, accompanied by seven other individuals and a woman, began physically assaulting my husband, causing him injuries and breaking his goggles.*

*An elderly relative of mine, who was walking ahead, attempted to intervene but was also attacked and thrown to the ground, resulting in severe injuries, including a wound on his right elbow and profuse bleeding. My sister's husband, who was nearby, tried to explain the situation to the perpetrators, but they strangled him, causing injuries to his neck, right hand, and left side of his chest. My husband, whose health is already compromised, sustained injuries all over his body.*

*During the assault, a person named Chohan and the guard, Swaroop Singh, spoke to me in a highly obscene and inappropriate manner. One of the guards touched me inappropriately from behind, while the*



other touched me from the front. Chohan instructed someone to delete the CCTV recording quickly. Chohan and Swaroop Singh committed further obscene acts against me, saying "bring her inside." The two guards then picked me up in an inappropriate manner, but fortunately, nearby visitors intervened and rescued us.

Chohan threatened us, stating that their master, Lakshyaraj Singh, is the king of the area and that they do not fear anyone. Local people present at the scene corroborated that these individuals frequently misbehave with women, and no action is taken against them. Even after the police arrived, Swaroop Singh and Chohan continued to threaten us. The obscene acts committed against me have left me feeling deeply humiliated and traumatized. I request that appropriate action be taken against these perpetrators."



9. A perusal of the FIR clearly reveals that neither the complainant has suffered any grievous injury, nor is there any allegation of attempt to cause any such injury levelled by her against any of the accused. Furthermore, the nature of injury suffered by her was found to be simple and therefore, rightly

Section 115(2) of BNS (corresponding Section 323 of IPC) has already been invoked. Whether or not actually she suffered any such injury, would be matter of trial and it is not for this Court to express any opinion on merits.

10. As far as Section 117(2) of BNS (corresponding Section 325 of IPC) is concerned, concededly, in the absence of any elementary allegation qua the same, the factual report to that extent does not stand judicial scrutiny. For ready reference Section 117(2) of BNS, 2023 is reproduced hereinbelow:-

***"117. Voluntarily causing grievous hurt.***

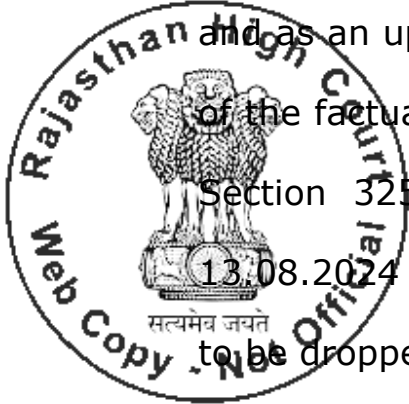
*(1). Whoever voluntarily causes hurt, if the hurt which he intends to cause or knows himself to be likely to cause is grievous hurt, and if the hurt which he causes is grievous hurt, is said "voluntarily to cause grievous hurt".*

*(2). Whoever, except in the case provided for by sub-Section (2) of Section 122 voluntarily causes grievous hurt, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine."*

11. A perusal of the above reflects that in the present case there is complete absence of any allegations in the FIR with regard to any grievous injury and its ingredients are lacking. Assertions of

learned Public Prosecutor noted in preceding part reveal that investigation has already concluded. Upon completion thereof, charge sheet against 5 named persons therein (factual report) is proposed. At this stage, it would therefore not be appropriate for this Court to go into merits of other allegations. In the premise, keeping in view the totality of facts and circumstances of the case

and as an upshot of discussion recorded herein above, and in view of the factual report, supra, Section 117(2) of BNS (corresponding Section 325 of IPC) invoked in the FIR No.0452/2024 dated 13.08.2024 registered at Police Station Sukher, Udaipur is directed to be dropped.



12. Petition is thus disposed of with the observation that as regards the rest of the offences, same being bailable, in case petitioners are formally arrested, they shall be released upon furnishing personal bond to the satisfaction of the Investigating Officer and the further proceedings to ensue in accordance with law.

13. Pending application, if any, stands disposed of.

**(ARUN MONGA),J**

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Whether fit for reporting: Yes