

  
**HIGH COURT OF JUDICATURE FOR RAJASTHAN  
BENCH AT JAIPUR**

S.B. Criminal Miscellaneous (Petition) No. 7763/2025

Axis Bank Ltd., Having Its Registered Office At Trishul, 3Rd Floor, Opp-Samartheshwar Temple, Law Garden, Ellis Bridge, Ahmedabad,- 380006 And Having Its One Of The Branch Office At K/21, Sunny House, Malviya Marg, C-Scheme, Jaipur, Rajasthan 302001, Through Its Authorized Signatory, Sh. Praneet Sharma S/o Prakash Chandra Sharma.

----Petitioner

Versus

1. State Of Rajasthan, Through Public Prosecutor.
2. M/s Seth M.I. Goyal And Sons, A-27, Vallabh Nagar, Kota, Rajasthan Through Proprietor / Authorized Representative.
3. M/s Mohanlal And Sons, A-27, Vallabh Nagar, Kota, Rajasthan Through Proprietor/ Authorized Representative.

----Respondents

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For Petitioner(s) : Mr.Shivangshu Naval assisted by  
Ms.Akansha Naval,  
Mr.Vineet Sharma &  
Ms.Neha Sharma

For Respondent(s) : Mr.V.R. Bajwa, Sr. Adv. assisted by  
Mr.Peush Nag,  
Mr.Manu Agarwal,  
Mr.Amar Kumar &  
Ms.Savita Nathawat  
Mr.Jitendra Singh Rathore, PP  
Mr.Vivek Choudhary, PP

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**JUSTICE ANOOP KUMAR DHAND**

**Order**

Reportable

1.	Date of conclusion of arguments	04/12/2025
2.	Date on which the judgment was reserved	04/12/2025
3.	Whether the full judgment or only the operative part is pronounced:	Full judgment
4.	Date of pronouncement	09/12/2025

**“Whosoever he may be, howsoever high, is not above the rule of law.” “No one is above the law” underpins the whole of today’s legal system and the same is the essence of rule of law.**

**Rule of Law is a fundamental concept in democratic societies that refers to the principles that all individuals and institutions, including governments are subject to and accountable to the same laws and legal system. This means that no one is above the law and everyone must follow the law, regardless of their position or status.**

**Today, the rule of law is recognized as a fundamental principle of democratic society around the world and is enshrined in the legal and constitutional system in many countries.**

**Whether any one like the petitioner can act against any order or directions passed by the Trial Court and upheld by this Court? This is the precise issue involved in the instant criminal misc. petition.**

1. By way of filing the instant criminal misc. petition, a challenge has been made to the impugned order dated 16.10.2025 passed by the Additional Chief Judicial Magistrate No.7, Kota in Criminal Case No.12377/2023 (State Vs. Hukum Chand and Ors.) arising out of the F.I.R. No.43/2011 registered at Police Station Bapawar, District Kota (Rural), whereby a direction has been issued to the petitioner-Bank-Axis Bank Ltd. (for short “petitioner-Bank”) to refund/ deposit the amount appropriated by it, which was lying in custody of the Bank, in the form of Fixed Deposit (for short, “the FD”).

2. Learned counsel for the petitioner submits that an order was passed by the Debt Recovery Tribunal, Jaipur (for short, "the DRT") on 20.04.2018, in the recovery proceedings pending against the borrower, by which the petitioner-Bank was permitted for temporary appropriation of the Original Application amount (for short, "the OA amount") without prejudice to the rights and contentions of the defendants.

3. Counsel submits that the aforesaid order was unsuccessfully assailed by the borrower before the Debt Recovery Appellate Tribunal (for short, "the DRAT"), however, the appeal was rejected, hence, pursuant to the liberty so granted by the DRT, the petitioner-bank has appropriated the amount lying under the FD. Counsel submits that now, by passing the order impugned, a direction has been issued to the petitioner-Bank to refund/redeposit the aforesaid amount, failing which action would be taken against the Managing Directors/ CEO of petitioner-Axis Bank and the concerned Bank Manager. Counsel submits that such direction cannot be issued by the learned Magistrate as the same is in contravention to the order passed by the DRT. Counsel submits that prior to passing of the aforesaid order by the DRT, an application was submitted by the petitioner-Bank seeking permission to withdraw the aforesaid amount before the Court below, however, the said application was rejected vide order dated 03.06.2013 against which the petitioner-bank approached this Court by way of filing S.B. Criminal Misc. Petition No.3705/2013, however, the same was withdrawn on 17.09.2014 with liberty to initiate the recovery proceedings against the defaulting Officers.

Counsel submits that pursuant to the aforesaid recovery proceedings, initiated before the DRT, an order was passed on 20.04.2018 by the DRT allowing the petitioner for temporary appropriation of the OA amount, hence, petitioners have not committed any illegality in appropriating the aforesaid amount. Therefore, the order impugned passed by the learned Magistrate is not tenable and sustainable in the eyes of law and the same is liable to be quashed and set aside.

4. In support of his contention, counsel has placed reliance upon an order/ judgment passed by the Division Bench of this Court in the case of **M/s Mohan Lal & Anr. Vs. State of Rajasthan & Ors.** while deciding **D.B. Special Appeal (Writ) No.448/2014** on 20.11.2018.

5. Per contra, the learned Public Prosecutor as well as learned counsel appearing on behalf of the respondent Nos.2 and 3 oppose the arguments raised by counsel for the petitioner and jointly submit that while deciding the application under Section 457 Cr.P.C., the learned Magistrate vide its order dated 07.07.2012 passed a detailed order directing the petitioner to prepare Fixed Deposit of the subject amount in the name of the Court and retain the subject amount in the said Fixed Deposit till conclusion of trial. Counsel submits that the subject amount is the Court property and without seeking prior permission of the Court, the petitioner-Bank was not having any Authority to encash the FD or appropriate the aforesaid amount and such act on the part of the petitioner-Bank tantamounts to disobedience of the order passed by the learned Magistrate. Counsel submits that the

aforesaid order was assailed by one Neeraj Goyal accused in the aforesaid F.I.R. by way of filing S.B. Criminal Misc. Petition No.2326/2012, wherein an application was submitted by the petitioner-Bank seeking impleadment, but the said application, submitted by the petitioner-Bank, was rejected vide order dated 20.09.2012 and finally, the aforesaid petition was rejected by this Court vide order dated 10.10.2012. Counsel submits that aggrieved by the aforesaid order, said Neeraj Goyal approached the Hon'ble Apex Court by way of filing Special Leave to Appeal (Crl.) No.8385/2012, however, permission was sought by him to withdraw the same and the Hon'ble Apex Court was pleased to dismiss the same as withdrawn vide order dated 09.11.2012. Counsels jointly submit that under these circumstance, the order dated 07.07.2012 has attained finality upto the order of the Hon'ble Apex Court.

6. Counsel further submit that when the application was submitted by the petitioner-bank seeking permission to withdraw the aforesaid amount before the Court of learned Magistrate, the said application was rejected on 13.06.2013 by passing a detailed order against which the petitioner-Bank approached this Court by way of filing S.B. Criminal Misc. Petition No.3705/2013, however the same was withdrawn on 17.09.2014 with liberty to initiate the recovery proceedings against the defaulting Officer. Counsels submit that no such permission was ever granted to the petitioner-Bank to encash the amount so lying in FD, hence, under these circumstance, the learned Court below has not committed any error in passing the order impugned, which warrants any

interference of this Court and the instant petition is liable to be rejected.

7. Lastly, counsel argued that even when the order dated 20.04.2018 was passed by the DRT, Jaipur, the petitioner-Bank has not brought the above noted facts into the notice of the DRT. Hence, in complete ignorance of the aforesaid facts, the DRT has passed the order dated 20.04.2018.

8. In rejoinder, counsel for the petitioner-Bank argued that after passing of the aforesaid order by the DRT, the subsequent impugned order passed by the learned Magistrate amounts to interference in the order passed by the DRT. He further submits that it is settled proposition of law that decisions of the Civil Court are binding on the Criminal Court, but the converse is not true. Lastly, he argued that the respondents are not prejudiced by the impugned order and they cannot claim themselves, being prejudiced by the order impugned rather the appropriation of the amount has been done by the petitioner, in the best interest of the borrowers.

9. Heard and considered the submissions made at the Bar and perused the material available on record.

10. Perusal of the record indicates that on 06.05.2011 one Naval Kishore resident of Gehukheri submitted a written report containing signatures of 33 agriculturists to the SHO, Bapawar Kalan alleging therein that Purshottam Mittal, Sumit Mittal, Vimal Mittal, Dinesh Mittal and Hukam Chand Mittal @ Naya Baniya' sons of Bhanwar Lal Mahajan, residents of Bapawar Kalan and their Muneem Shyam Bihari purchased their grains and agricultural

products on credit and kept the same in the godowns. It was alleged that they were reportedly absconding after giving Kacchi Parchi (receipt) of the grains and thus, thereby they are committing fraud and cheating with these farmers. On the basis of the said report, an FIR No. 43/2011 was registered for the offences under sections 420, 406 IPC and the investigation commenced. During investigation, about 418 farmers informed that their agricultural products worth Rs. 9.0 crores was given in trust to the accused Purshottam Mittal, Sumit Mittal, Vimal Mittal, Dinesh Mittal, Hukam Chand Mittal for keeping them in godowns of Bapawar. The accused persons were doing their business in Krishi Mandi and after winning the faith of the farmers, they took their agricultural products for keeping it in the godowns, by giving assurance that whenever the prices of the respective agricultural products would be increased, the same would be sold and payments would be made to all the respective farmers. The Investigating Officer seized the slips produced by the farmers, recorded the statements of the farmers, also collected the records from the Krishi Mandi Samiti and Axis Bank and recorded statements of other witnesses and since, a prima facie case was found against all the five accused persons, efforts were made to search and nab them. The agricultural products which the accused persons had taken from the farmers on trust, were kept in four godowns in Bapawar Kalan. Out of these four godowns, three godowns belong to the accused persons, while one godown has been stated to be taken on rent. The agricultural products belonging to the farmers have been kept in these godowns

(warehouses) which are weighing about 57911 quintals. The farmers stated that these agricultural products were not belonging to the said firms of the accused-persons. The accused persons, in the first instance, have transferred the agricultural products on paper in the names of the firms being run in the name of their family members. On the basis of these documentary transferred papers, they had prepared cash bills of purchase and sale of the agricultural products in question and on the basis of such forged bills they have taken a loan of about Rs. 9.00 crores from the Axis Bank. The entire stock of the agricultural products was kept in mortgage with the Axis Bank. Prima facie it is evident that the accused persons namely, Purshotam Mittal, Sumit Mittal, Vimal Mittal, Dinesh Mittal, Hukam Chand Mittal @ Naya Baniya while hatching a criminal conspiracy with the accused Mahendra Goyal, Dheeraj Goyal and Neeraj Goyal, have mortgaged the agricultural products, which were kept in the godowns by the poor farmers on trust thereby grabbing the agricultural products of the poor farmers dishonestly and by cheating and committing breach of trust, punishable under sections 420, 406 and 120 B IPC. 3. The accused persons Purshottam Mittal, Hukam Chand, Sumit Mittal, Vimal Mittal and Dinesh Mittal were arrested on 20.10.2011 from Bangalore (karnataka) and on the basis of the information of the accused persons, the agricultural products lying in the godowns at Bapawar were seized and taken into possession by the Police under section 27 of the Evidence Act. After investigation, the charge sheet was filed against these accused persons in the competent Court at Sangod on 19.12.2011 and since accused

Mahendra Goyal, Dheeraj Goyal and Neeraj Goyal were absconding, investigation against them was kept pending, in terms of section 173 (8) Cr.P.C. On 30.12.2011 accused Mahendra Goyal and Neeraj Goyal were arrested from Indore (MP). Upon investigating the accused, records relating to purchase and sale of the firm Mohan Lal and Sons and Seth M.L. Goyal and Sons were seized. From the record it is prima facie clear that the accused persons by hatching a criminal conspiracy, made forged transactions of purchase and sales of agricultural products, belonging to the poor farmers lying in the godowns at Bapawar worth Rs. 9.0 crores and by committing breach of trust, pledged the said agricultural products with the petitioner-Axis Bank for taking huge loans as a result of which about 623 farmers are suffering and regularly agitating against the accused persons. Challan against accused Mahendra Kumar Goyal and Neeraj Kumar Goyal has also already been filed in the competent Court at Sangod on 21.03.2012. The accused Dheeraj Goyal, proprietor of the firm Seth M.L. Goyal and Sons, is still absconding. With regard to the agricultural products, seized on the information provided by the accused persons, i.e., Mustard 22551 bags, wheat 15764 bags, Dhania 458 Bags, Soyabin 173 bags, being of perishable nature, the Investigating Officer i.e. Additional Superintendent of Police, Kota (Rural) moved an application under section 457 Cr.P.,C. before the Additional Chief Judicial Magistrate, Ramganj Mandi seeking permission for auction of the said agricultural products. The Trial Court, after hearing the Investigating Officer as also the counsels for the parties, vide its order dated 07.07.2012

ordered for auction of the agricultural products in larger interest of all the concerned parties. The Trial Court, while exercising the jurisdiction vested in it under section 457 Cr.P.C., has passed a detailed and reasoned order, after taking into consideration, all the relevant facts particularly the fact that in view of the on going rainy season, there is all possibility of decaying of the above agricultural products.

11. The learned ACJM, Ramganj Mandi, Kota, i.e., the Trial Court vide order dated 07.07.2012 constituted a committee to conduct a public auction of the seized agricultural products and deposit the auction amount in FDR with the Axis Bank in the name of the Court.

12. The aforesaid order dated 07.07.2012 was assailed by the accused Neeraj Goyal before this Court by way of filing S.B. Criminal Misc. Petition No.2326/2012, wherein an application was submitted by the petitioner-Bank for its impleadment as party. However, the said application was rejected by this Court on 20.09.2012 and finally, the aforesaid petition was rejected on 10.10.2012 with the following observations in Para Nos.14 and 15 which read as under:-

“14. A bare perusal of the above finding would make it clear that there is no perversity in the order passed by the trial court on the application filed by the Investigating Officer. I am in agreement with the findings arrived at by the trial court in the order dated 7.7.2012. The order dated 7.7.2012 passed by the trial court is in accordance with the provisions of the Criminal Procedure Code mentioned above and the rulings cited above of the Apex court.

15. For the reasons mentioned above and in the facts and circumstances of this case, the order passed by the trial court dated 7.7.2012 does not call for any interference to prevent the abuse of the process of the court or otherwise to secure the ends of justice in the inherent jurisdiction of this court under section 482 Cr.P.C. The order is just and proper. The criminal misc. petition being devoid of merit deserves to be rejected. It is hereby rejected. The stay application also stands disposed of.”

13. The above order dated 10.10.2012 passed by this Court was assailed by the said Neeraj Goyal before the Hon'ble Apex Court by way of filing Special Leave to Appeal (Crl.) No.8385/2012, however, the same was withdrawn by him on 09.11.2012. Hence, the order dated 07.07.2012 passed by the Trial Court has attained finality.

14. It appears that the petitioner-Bank submitted an application on 12.04.2013 before the Trial Court to appropriate a sum of Rs.5,56,78,363/- for the total amount of FDR, however, the said application was rejected on 03.06.2013 and the prayer seeking permission to withdraw the aforesaid amount was declined.

15. Aggrieved by the aforesaid order dated 03.06.2013, the petitioner-Bank approached this Court by way of filing S.B. Criminal Misc. Petition No.3705/2013, but the said petition was withdrawn by the petitioner-Bank on 17.09.2014 with liberty to initiate the recovery proceedings against the defaulting borrower.

16. Thereafter, the petitioner-Bank submitted Original Application No.241/2015 before the DRT along-with Interim Application (I/A No.142/2018) and the said I/A No.142/2018 was decided by the DRT with the following observations:-

"This application is filled by the applicant bank under section 19 (25) of the RDDB FI Act for appropriation of pledged amount in FIR 43/2011 pledged agricultural produce sold with the consent of the applicant bank and sale proceed of the agricultural produce deposited with the applicant bank in FDR and the tribunal has got exclusive jurisdiction but said rights to the bank and the borrower and pledge consent in dispute and rights of the applicant bank covered by under section 178 of the Indian Contract Act and the applicant bank undertake to abide by the condition may be put up by the tribunal and the applicant bank submit to permit it appropriate auction proceed with the condition imposed. The respondent resist the application contending the amount cannot be appropriate at the stage without final disposal of the case and there is no urgency of the appropriation and the defendants got valid defense in the OA including question of the jurisdiction and if at the stage pledged amount is released, the defendant would suffer irreparable loss. IA is liable to be dismissed in the present application the applicant bank file affidavit and submitting that if in the adverse order is pasted in OA, total reimburse amount to the tribunal and no prejudice is caused to the defendants if the amount is appropriated.

Heard the both side, now this point to consideration is whether the applicant is entitled for appropriation of the process of sale of agricultural produce pending in the disposal of the OA.

The sale proceeds are already under deposit with the OA bank as per direction given in the FIR 43/2011. The OA is pending in recovery amount from the defendants if the amount is appropriating.

It is also beneficial to the defendants as there is no rival claim and further the interest burden to the defendant would also to reduce in case of the appropriation is made temporarily pending disposed of the OA subject to the result of the OA. This tribunal is considered opinion no prejudice cause to the defendant. Appropriation is permitted subject to result the same with the tribunal. In case the verdict in the OA is against the applicant bank. Accordingly the petition is allowed permitting the temporary appropriation of the OA amount by the bank without prejudice to the rights and contention of the defendants filled in main OA.”

17. It appears that the above noted facts in Para Nos.12 to 17 were not brought into the notice of the DRT by the petitioner-Bank hence, the DRT in complete ignorance of the above stated facts allowed the I/A No.142/2018 permitting the temporary appropriation of the OA amount by the petitioner-Bank without prejudice to the rights of the defendants, i.e., borrower.

18. On the basis of the aforesaid order dated 20.04.2018 passed by the DRT, the petitioner-Bank has appropriated maximum amount from the FDR, i.e., Rs.8,20,47,000/- and deposited the balance amount of Rs.1,84,31,806/- vide Demand Draft No.047682.

19. The aforesaid amount was appropriated by the petitioner-Bank without seeking any prior permission from the Trial Court and against the order dated 03.06.2013. That is why, the Trial Court has passed the impugned order dated 16.10.2025 holding that such an act on the part of the petitioner-Bank is done in utter violation of law. Hence, notices have been rightly issued to the

Manager Director/ C.E.O. of the Axis Bank and the concerned Branch Manager to return the amount received with interest within 7 days, failing which appropriate action was ordered to be taken against them.

20. The aforesaid act of the petitioner-Bank is contrary to the orders dated 07.07.2012 and 03.06.2013 passed by the Trial Court. Without seeking fresh permission of the Trial Court, the petitioner-Bank is not entitled to withdraw the amount in question from the amount lying in the FDR.

21. It is settled proposition of law that no one is above the law. The legal orders and judgments must be universally obeyed to maintain the order, justice and accountability. No one can be allowed to defy the orders passed by the Courts. The Court orders are meant to be followed and the same is crucial for maintaining order and justice in the society.

22. The orders dated 07.07.2012 and 03.06.2013 passed by the Trial Court and the orders passed by this Court were not brought into the notice of the DRT, at the time of arguments made in I.A. No.142/2018 and that is why the petitioner-Bank was permitted by the DRT for temporary appropriation of the OA amount. Had all these facts and orders were brought into the notice of the DRT, the order dated 20.04.2018 would not have been passed. Hence, the DRT has passed the order dated 20.04.2018 in complete ignorance of the above earlier orders.

Therefore, the petitioner-Bank cannot be allowed to justify its action of withdrawal of the subject amount from the amount lying with it, in the name of the Trial Court.

23. The aforesaid act of the petitioner-Bank is totally unwarranted because being a legal entity, it is also supposed to follow the law and the orders passed by the Courts. The aforesaid act of the petitioner amounts to disobedience of the orders dated 07.07.2012 and 03.06.2013 passed by the Trial Court and upheld by this Court. Appropriate proceedings could have been initiated against the erring officials of the Bank.

Though the Court hastens to add that this Court is taking a lenient view, but it is necessary for this Court to send a clear message that no one, howsoever higher, he may be, is not above the law.

24. When a Constitutional Court or any Court for that matter passes any order or issues any direction, every person or Authority, regardless of the rank, is duty bound to respect and comply with the said order. Disobedience of the orders passed by the Court attacks the very foundation of the rule of law, on which the entire democracy is based.

25. Accordingly, this Court is of the considered opinion that the Trial Court has not committed any error in passing the order impugned and the impugned order does not warrant any interference of this Court and this Court finds no fault in the same. Consequently, the instant criminal misc. petition fails and the same is hereby rejected.

26. Stay application and all pending application(s), if any, also stand disposed of.

(ANOOP KUMAR DHAND),J