



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

S.B. Criminal Miscellaneous (Petition) No. 4531/2023

Vimal Singh S/o Sh. Pitram Singh, aged about 47 Years, R/o 152, Shri Ram Nagar, Jhotwara, Jaipur (Raj). (Presently posted as Addl. Superintendent Of Police, Bhilwara Raj.)

----Petitioner

Versus

1. State of Rajasthan, through Public Prosecutor.
2. Tejraj alias Teju alias Tejraj Nagar S/o Shri Kanhaiyalal, aged about 33 Years, R/o Bukhari, P.s. Sarola Kalan, Distt. Jhalawar (Raj).
3. Smt. Rukmani Bai W/o Shri Kanhaiyalal, aged about 60 Years, R/o Bukhari, P.S. Sarola Kalan, Distt. Jhalawar (Raj).
4. Kanhaiyalal S/o Shri Latur Lal, aged about 63 Years, R/o Bukhari, P.s. Sarola Kalan, Distt. Jhalawar (Raj).

----Respondents

For Petitioner(s) : Mr. Anurag Sharma, Adv. with
Mr. Akshat Sharma, Adv. &
Mr. Anoop Meena, Adv.

For Respondent(s) : Mr. M.S. Shekhawat, PP

HON'BLE MR. JUSTICE ANIL KUMAR UPMAN

Order

REPORTABLE

15/12/2025

1. The petitioner has preferred this Criminal Misc. Petition aggrieved by judgment and order dated 29.04.2023 passed by learned Special Judge, NDPS Cases, Jhalawar in Sessions Case No.63/2018 titled as State of Rajasthan Vs. Tejraj @ Teju @ Tejraj Nagar & Ors. whereby while acquitting the respondents, adverse remarks have been passed against the petitioner and direction has been issued to the Director General of Police, Rajasthan to initiate



appropriate proceedings against the petitioner under Order 35 Rule 6 of the General Rules (Civil and Criminal), 2018.

2. Learned counsel for the petitioner submits that the petitioner was posted as Additional Superintendent of Police, Jhalawar at the relevant point of time. Vide para No.86 of the judgment dated 29.04.2023, it has been held that in the discharge of the official duties of a public servant, the petitioner has committed irregularities in a seriously irresponsible manner therefore, disciplinary and legal proceedings be initiated against him. The para No.86 of the judgment dated 29.04.2023 reads as under:-

86. लोक सेवक के पदीय कर्तव्य के निर्वहन में डॉ० भास्कर बिश्नोई व अनुसंधान अधिकारी विमलसिंह द्वारा गंभीर रूप से गैर जिम्मेदार तरीके से अनियमित कार्य संपादन किया गया है जिसके संदर्भ में जिला मजिस्ट्रेट व पुलिस महानिरीक्षक को सामान्य नियम सिविल व दांडिक 2018 के आदेश 35 नियम 6 में जरिये पृथक-पृथक पत्र अवगत करावाया जावे और पत्र पर विधिअनुसार की जाने वाली कार्यवाही से न्यायालय को अविलंब सूचित किये जाने की ताकीद की जावे।

3. The petitioner has taken a plea that he was not afforded opportunity of hearing before making such adverse remarks vide the impugned judgment and thus, the impugned judgment to the extent of issuing direction/remarks against him for initiating disciplinary as well as legal proceedings, is in violation of the principle of natural justice.

4. I have perused the judgment.

5. In the case of **"Manish Dixit & Ors. vs. State of Rajasthan"** reported in **2001, Volume 1, SCC 596**, Hon'ble Supreme Court has held that before any castigating remarks are made by the court against any person, particularly when such





remarks could ensure serious consequences on the future career of the person concerned, he should be given an opportunity of hearing in the matter in respect of the proposed remarks or strictures. Such an opportunity is the basic requirement, for, otherwise the offending remarks would be in violation of the principles of natural justice.

6. The Hon'ble Supreme Court has repeatedly cautioned the Courts from passing castigating remarks against any person, particularly when such remarks could ensue serious consequences on the future career of the person concerned.

7. This case presents a further issue for this Court's consideration. The impugned order and the adverse remarks recorded by the learned Judge also extend to another individual namely Dr. Bhaskar Bishnoi, who has not approached this Court assailing the remarks passed by the learned subordinate court. Simply, this means that the castigating remarks passed by the learned Court also included remarks against this individual and this individual also wasn't provided an opportunity to be heard. Consequently, he stands on the same footing as that of the petitioner.

8. Just because he has not raised a petition to get the castigating remarks expunged, like that presented by the current petitioner, it cannot be said that the castigating remarks passed by the learned Court specifically against him are correct. Following the principle of parity, when a court finds that a specific action suffers from a definitive legal infirmity, the benefit extended to one party must be extended to others similarly situated. A





criminal court must decide like cases alike to avoid any form of discrimination.

9. This Court being a Constitutional Court has to keep in mind the Fundamental Right enshrined under Article 21 and must ensure that this right is not violated, by not providing the same relief to this other individual. The principles of fairness, equity, and natural justice demand that such similarly placed individual must also be granted the same relief, notwithstanding the absence of a separate challenge.

10. I fortify my view from the judgement delivered by the Hon'ble Supreme Court in the case of **Javed Shaukat Ali Qureshi vs State of Gujarat, reported in 2023 0 AIR(SC) 4444**, wherein it observed that -:

"18. Now, we come to the case of accused no.2. By the order dated 11th May 2018, a special leave petition filed by accused no.2 was summarily dismissed without recording any reasons. The law is well settled. An order refusing special leave to appeal by a nonspeaking order does not attract the doctrine of merger. At this stage, we may refer to a three judge Bench decision of this Court in the case of Harbans Singh v. State of U.P. & Ors., (1982) 2 SCC 101. In paragraph 18, this Court held thus:

"18. To my mind, it will be a sheer travesty of justice and the course of justice will be perverted, if for the very same offence, the petitioner has to swing and pay the extreme penalty of death whereas the death sentence imposed on his co-accused for the very





same offence is commuted to one of life imprisonment and the life of the co-accused is shared (sic-spared). The case of the petitioner Harbans Singh appears, indeed, to be unfortunate, as neither in his special leave petition and the review petition in this Court nor in his mercy petition to the President of India, this all important and significant fact that the life sentence imposed on his co-accused in respect of the very same offence has been commuted to one of life imprisonment has been mentioned. Had this fact been brought to the notice of this Court at the time when the Court dealt with the special leave petition of the petitioner or even his review petition, I have no doubt in my mind that this Court would have commuted his death sentence to one of life imprisonment. For the same offence and for the same kind of involvement, responsibility and complicity, capital punishment on one and life imprisonment on the other would never have been just. I also feel that had the petitioner in his mercy petition to the President of India made any mention of this fact of commutation of death sentence to one of life imprisonment on his co-accused in respect of the very same offence, the President might have been inclined to take a different view on his petition.” (emphasis added)

19. We have found that the case of accused no 2 stands on the same footing as accused nos. 1, 5 and





13 acquitted by this Court. The accused no.2 must get the benefit of parity. The principles laid down in the case of Harbans Singh will apply. If we fail to grant relief to accused no 2, the rights guaranteed to accused no. 2 under Article 21 of the Constitution of India will be violated. It will amount to doing manifest injustice. In fact, as a Constitutional Court entrusted with the duty of upholding fundamental rights guaranteed under the Constitution, it is our duty and obligation to extend the same relief to accused no.2. Therefore, we will have to recall the order passed in the special leave petition filed by accused no.2."

11. Perusal of the record would reveal that no opportunity of hearing was granted to the petitioner and other individual before making castigating remarks vide impugned judgment and therefore, in view of the judgment passed by the Hon'ble Supreme Court in **Manish Dixit (supra)**, the impugned order dated 29.04.2023 passed by learned Special Judge, NDPS Cases, Jhalawar in Sessions Case No.63/2018, to the extent of making castigating remarks against the petitioner and another individual namely Dr. Bhaskar Bishnoi and issuing direction therein, to initiate disciplinary and legal proceedings against them is set-aside.

12. The present Criminal Misc. Petition is accordingly allowed.

13. Stay application and pending application(s), if any, stand disposed of.





14. However, Disciplinary Authority would be at liberty to examine the matter independently without being influenced from any observation made by the learned trial court.

15. Needless to say, the Disciplinary Authority shall adhere to the principles of natural justice.

(ANIL KUMAR UPMAN),J

Manoj Solanki /75

