HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

S.B. Criminal Writ Petition No. 600/2024

Santok Singh Khalsa S/o Harwant Singh, Aged About 60 Years, R/o 1/4, Before Surya Marble, Sudarshna Nagar, Bikaner (Raj)

----Petitioner

Versus

1. State Of Rajasthan, Through Pp
2. Pawan Kumar Dholia S/o Ladhuram, B/c Dholia, R/o H. No.1190, Prem Nagar, Abohar, Tehsil Abohar, District Fajilka, Punjab

----Respondents

For Petitioner(s) : Mr. Ratish Bhatnagar
For Respondent(s) : Mr. N.S. Chandawat, Dy.G.A.

HON'BLE MR. JUSTICE FARJAND ALI

Order

REPORTABLE

19/02/2026

1. The present writ petition is directed against the order dated 21.04.2018 passed by the learned Judicial Magistrate, Gram Nyayalay, Kolayat in Criminal Complaint No. 26/2017, whereby cognizance was taken for the offences punishable under Sections 420, 468, 471 and 120B of the Indian Penal Code and process was issued in the form of a warrant of arrest to secure the presence of the petitioner.

2. Aggrieved thereby, the petitioner preferred a criminal revision before the learned District & Sessions Judge, Bikaner and the matter was transferred to the Court of the learned Special Judge, SC/ST (Prevention of Atrocities) Act-cum-Additional Sessions Judge, Bikaner. The

learned Additional Sessions Judge, upon hearing the parties, dismissed the revision petition and affirmed the order of cognizance passed by the Nyayadhikari. Hence, the present writ petition.

3. I have heard learned counsel for the parties at considerable length and have meticulously examined the material available on record.

4. At the very threshold, it becomes imperative to advert to the statutory architecture governing challenges to orders passed by a Nyayadhikari under the Gram Nyayalayas Act, 2008. Section 33 of the Act provides for appeals in criminal cases and reads thus:

Section 33 – Appeal in Criminal Cases

(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 or any other law for the time being in force, no appeal shall lie from any judgment, sentence or order of a Gram Nyayalaya except as provided hereunder.

(2) No appeal shall lie where—

(a) an accused person has pleaded guilty and has been convicted on such plea;

(b) the Gram Nyayalaya has passed only a sentence of fine not exceeding one thousand rupees.

(3) Subject to sub-section (2), an appeal shall lie from any other judgment, sentence or order of a Gram Nyayalaya to the Court of Session.

(4) Every appeal under this section shall be preferred within a period of thirty days from the date of judgment, sentence or order of a Gram Nyayalaya.

(5) The Court of Session may, after giving the parties an opportunity of being heard, pass such order as it thinks fit and the decision of the Court of Session shall be final.

Interpretation of sub-Sections (3), (4) & 5)

(a) Sub-section (3) of Section 33 constitutes the fulcrum of the appellate framework engrafted within the statute. Subject to the narrowly circumscribed exclusions contained in sub-section (2), it mandates that an appeal shall lie from any other judgment, sentence, or order of a Gram Nyayalaya to the Court of Session. The legislative choice of the phrase "shall lie" is neither casual nor permissive; it is couched in imperative terms, thereby creating a vested and enforceable statutory right. The provision admits of no discretion as to the availability of the remedy nor does it contemplate an alternative procedural substitute.

The expression "*any other judgment, sentence or order*" is deliberately expansive and comprehensive in amplitude. It manifests a clear legislative intent to encompass within its sweep every determinative pronouncement of the Gram Nyayalaya, save those expressly excluded. By designating the Court of Session as the exclusive appellate forum, the statute not only confers a substantive right but also prescribes the precise judicial channel through which that right must be exercised. The provision thus establishes a structured appellate hierarchy and leaves no interstitial space for the substitution of revisional remedies in place of the expressly conferred appellate jurisdiction.

(b) Sub-section (4) reinforces the disciplined structure of this appellate mechanism by prescribing a limitation period of thirty days from the date of the impugned judgment, sentence, or order. This temporal stipulation is not merely procedural formality; it is an intrinsic component of the legislative design. The establishment of Gram Nyayalayas is animated by the objective of expeditious and accessible justice at the grassroots level. The prescription of a defined period of limitation ensures prompt invocation of appellate scrutiny, thereby harmonizing the right of appeal with the competing necessity of finality and procedural certainty.

(c) Sub-section (5) completes the statutory edifice by delineating the width and contours of the appellate power vested in the Court of Session. It expressly mandates adherence to the principle of audi alteram partem, thereby safeguarding procedural fairness. More significantly, the phrase "pass such order as it thinks fit" is of the widest import and confers plenary authority upon the appellate court. The Court of Session is thereby empowered to affirm, reverse, modify, remand, or otherwise alter the impugned determination in exercise of comprehensive judicial reconsideration. The declaration that the decision of the Court of Session shall be final underscores the self-contained and exhaustive nature of the appellate mechanism, evincing legislative intent to preclude multiplicity of proceedings and to secure terminative adjudication within the statutory hierarchy.

4. A conjoint and harmonious reading of sub-sections (1) to (5) leaves no room for doubt that Section 33 constitutes a complete

and self-sufficient code governing criminal appeals from orders of the Gram Nyayalaya. The legislative scheme is deliberate, structured, and exhaustive: appeals are expressly confined to those permitted under Section 33; specific exceptions are carved out under sub-section (2); a mandatory right of appeal is conferred under sub-section (3); a defined limitation period is prescribed under sub-section (4); and plenary appellate powers with statutory finality are vested under sub-section (5). The conspicuous absence of any reference to revisional jurisdiction is both eloquent and legally significant.

4.1. In such a statutory landscape, the remedy available to an aggrieved party against an order of the Nyayadhikari is exclusively by way of filing an appeal before the Court of Session. Resort to revisional jurisdiction, in substitution of the prescribed appellate remedy, would not merely be procedurally irregular; it would constitute a deviation from legislative command and an impermissible enlargement of jurisdiction.

4.2. In the present case, the petitioner or his counsel, instead of availing the statutorily ordained appellate remedy, instituted a revision petition before the learned District & Sessions Judge, which ultimately came to be adjudicated by the learned Additional Sessions Judge. The revisional court, without first undertaking a threshold examination of maintainability and jurisdiction, proceeded to adjudicate the matter on merits. Such an approach overlooks the foundational principle that jurisdiction is conferred

by statute and cannot be assumed by inadvertence, acquiescence, or consent of parties.

4.3. It is trite that the sine qua non of judicial adjudication is the lawful existence of jurisdiction. The question of maintainability is anterior to, and conditions, the exercise of judicial power. A court is duty-bound, at the very inception, to satisfy itself that the lis presented before it falls within the compass of its statutory authority. Failure to undertake such foundational scrutiny amounts to a jurisdictional aberration, rendering the resultant adjudication vulnerable in law.

4.4. The statutory mandate of Section 33 admits of no ambiguity: appellate jurisdiction therein is the sole and structured avenue of challenge. Judicial discipline demands scrupulous adherence to the boundaries so delineated, for the legitimacy of adjudicatory power rests upon fidelity to the legislative framework within which it is exercised.

4.5. The distinction between appeal and revision is not merely procedural but substantive and conceptual:

1. **Nature of Right:**

   An appeal is a creature of statute and constitutes a vested legal right when expressly conferred. A revision, conversely, is not a right inhering in the litigant; it is a discretionary supervisory jurisdiction to be exercised to ensure legality and propriety.

2. **Scope of Scrutiny**

In appellate jurisdiction, the court may reappreciate evidence, reassess factual findings, and examine questions of law and facts in their entirety. In revisional jurisdiction, scrutiny is circumscribed to the legality, correctness, and propriety of the impugned order, and ordinarily does not extend to a re-evaluation of evidence unless patent illegality or perversity is demonstrated.

3. **Amplitude of Powers**

An appellate court is vested with comprehensive authority to confirm, reverse, modify, or remand the matter. A revisional court exercises a narrower supervisory function to rectify jurisdictional errors or manifest miscarriages of justice.

The conflation of appellate and revisional jurisdictions strikes at the very architecture of the statutory scheme. Each jurisdiction is conceived by the legislature with a distinct purpose, scope, and amplitude. An appeal, being a substantive statutory remedy, is intended to afford a comprehensive re-examination of the impugned order both on facts and on law. A revision, in contrast, is a circumscribed supervisory power designed to correct patent illegality, jurisdictional error, or manifest miscarriage of justice. To blur the demarcation between these two remedies is to subvert the legislative intent and to distort the calibrated hierarchy of judicial scrutiny.

4.6. When the legislature, in its wisdom, has expressly provided an appellate remedy under Section 33 of the Gram Nyayalayas Act, 2008, and has delineated the forum, limitation, and finality

attached thereto, the invocation of revisional jurisdiction is not merely irregular, it is impermissible. The statutory prescription is neither ornamental nor optional; it is mandatory and binding. Courts are creatures of statute insofar as their jurisdiction is concerned, and they cannot traverse beyond the boundaries so ordained.

4.7. Judicial prudence, particularly at the level of a senior judicial officer entrusted with supervisory authority, demands a vigilant and scrupulous examination of maintainability at the very threshold. The question of jurisdiction is foundational; it precedes and conditions the exercise of adjudicatory power. A court must first satisfy itself that it is lawfully empowered to entertain the proceeding before embarking upon an evaluation of merits. Failure to undertake such scrutiny renders the entire exercise vulnerable, for jurisdiction cannot be conferred by acquiescence, consent, or inadvertence.

4.8. Entertaining and adjudicating a revision in the face of an express appellate remedy amounts to a jurisdictional transgression of a fundamental character and an error non-rectifiable. It results not only in procedural impropriety but in a substantive deviation from the statutory command. Such an approach erodes the discipline imposed by legislative design, creates uncertainty in the administration of justice, and undermines the hierarchical structure envisaged by law.

4.9. The demarcation and scrupulous observance of jurisdictional boundaries is not a matter of procedural nicety but a foundational

precept upon which the legitimacy and authority of judicial power indubitably rest. Courts derive their competence not from convenience or acquiescence but strictly from the mandate of law, and therefore the exercise of adjudicatory authority must invariably remain confined within the contours delineated by the governing statute. A court of law, while performing its solemn adjudicatory function, cannot be regarded as a mere conduit through which every petition filed must inevitably pass for consideration. The institution of judicial proceedings does not, by itself, compel the Court to entertain or adjudicate the matter. Before assuming cognizance of any petition or application, it becomes the solemn obligation of the Court to undertake a careful and methodical examination of its jurisdictional competence.

4.10. Such an inquiry necessarily entails two indispensable considerations. Firstly, the Court must ascertain whether it possesses the requisite territorial jurisdiction to entertain the matter presented before it. Secondly, it must determine whether the subject matter of the lis falls within the statutory sphere of authority conferred upon it. These jurisdictional predicates constitute the threshold conditions precedent to the lawful exercise of judicial power. Unless these foundational requirements stand satisfied, any adjudicatory exercise undertaken by the Court would be devoid of legal sanction.

4.11. Equally significant is the obligation of the Court to satisfy itself that it is legally empowered to grant the relief sought by the petitioner. The mere presentation of a grievance before a forum

does not ipso facto vest that forum with authority to adjudicate the dispute. The Court must first be assured that the matter has been brought before the legally appropriate and competent forum contemplated by the statute. Judicial propriety requires that courts refrain from entertaining proceedings that fall outside the jurisdictional architecture designed by the legislature.

4.12. Closely allied to this inquiry is the well-entrenched doctrine of exhaustion of statutory remedies. Where the legislature, in its wisdom, has devised a specific and efficacious remedial mechanism for redressal of grievances, the aggrieved party is expected, as a matter of settled legal principle, to pursue that remedy in the first instance. Such statutory remedies are neither ornamental nor optional; they constitute the primary avenue through which grievances must ordinarily be ventilated. Consequently, attempts to circumvent the prescribed statutory pathway by invoking alternative jurisdictions; whether by way of petitions, revisions, or collateral proceedings, ought not to be countenanced. In such circumstances, judicial discipline mandates that the Court decline to entertain the matter at the very threshold, without embarking upon an examination of the merits.

4.13. The rationale underlying this principle is both pragmatic and jurisprudential. It preserves the hierarchical structure of judicial remedies envisioned by the legislature, prevents multiplicity of proceedings, and ensures that disputes are adjudicated in accordance with the procedural order contemplated by law. The

maintenance of this discipline is indispensable to the orderly administration of justice.

4.14. The present situation, however, reveals a matter of concern that cannot be overlooked. While presiding over this roster, this Court has noticed on several occasions, indeed in four or five instances, that revision petitions have been entertained and adjudicated by the learned Sessions Judge against orders passed by the Nyayadhikari of the Gram Nyayalaya, notwithstanding the clear statutory position that such revisional jurisdiction is not contemplated under the governing legislative framework. This recurring pattern indicates a departure from the statutory design and necessitates a reaffirmation of the principles governing jurisdiction.

4.15. If such a practice were to continue unchecked, it could potentially give rise to an anomalous and disorderly situation wherein litigants, disregarding the remedies specifically prescribed by statute, might seek to invoke whichever forum appears most expedient to them. Such an approach would undermine the carefully structured hierarchy of remedies established by law and could lead to considerable uncertainty and inconsistency in the administration of justice. Where the statute expressly provides a remedy of appeal, the aggrieved party must necessarily pursue that appellate remedy in accordance with the procedure and limitations prescribed. Conversely, in situations where the legislature has deliberately curtailed the right of appeal and has instead permitted a limited supervisory challenge to test the

legality, correctness, or propriety of an order, a revision may lie only within those narrowly circumscribed parameters.

4.16. The judicial system cannot permit a conflation or substitution of these distinct remedies, for each is conceived by the legislature with a specific purpose and scope. The integrity of the legal process depends upon faithful adherence to these distinctions. To disregard them would be to unsettle the carefully balanced framework of remedies envisaged by the statute. It must, however, be acknowledged that in rare and exceptional situations where the circumstances disclose a manifest abuse of the process of law or a grave and palpable miscarriage of justice; the extraordinary jurisdiction of this Court may justifiably be invoked. Such recourse may be taken either through the inherent jurisdiction preserved under Section 482 of the Code (corresponding to Section 528 of the Bharatiya Nagarik Suraksha Sanhita) or by invoking the constitutional supervisory jurisdiction vested in this Court under Articles 226 and 227 of the Constitution of India. These powers, however, are extraordinary in character and are not intended to supplant the ordinary remedies provided by statute. Their invocation must remain confined to those exceptional situations where the statutory framework fails to furnish an adequate remedy or where intervention becomes imperative to prevent a palpable failure of justice.

4.17. The preservation of a clear and disciplined distinction between statutory remedies and extraordinary jurisdictions is therefore indispensable. Such discipline safeguards the structural

coherence of the judicial system, reinforces respect for legislative intent, and ensures that the administration of justice proceeds within the framework ordained by law rather than through the inadvertent assumption of powers not sanctioned by statute.

5. This Court is constrained to hold that the learned Sessions Judge and Additional Sessions Judge committed a manifest error of jurisdiction in entertaining and deciding the revision petition. The order impugned herein, having been rendered in derogation of the statutory mandate, cannot be sustained and is hereby set aside and the matter is remanded back to the learned Sessions Judge. The learned Additional Sessions Judge is directed to again register the proceedings as a criminal appeal under Section 33 of the Gram Nyayalayas Act, 2008. After issuing notice to both parties and affording them a full and effective opportunity of hearing, the appeal shall be decided afresh on its own merits, strictly in accordance with law and uninfluenced by any observations made in the earlier revisional order.

5.1. It is expressly clarified that this Court has not examined the legality, correctness, or propriety of the order passed by the learned Nyayadhikari taking cognizance and issuing process. All such questions are left open to be adjudicated by the appellate court in exercise of its statutory jurisdiction.

5.2. The impugned order reveals that upon taking cognizance on a private complaint, the learned Nyayadhikari issued a warrant of arrest at the very inception. The jurisprudential guidance rendered by the Hon’ble Supreme Court in ***Inder Mohan Goswami v.***

State of Uttaranchal, (2008) 1 SCC 561, unequivocally emphasizes that issuance of a warrant in a complaint case, at the first instance should be eschewed and that summons ought ordinarily to be the rule, unless compelling circumstances warrant a departure.

5.3. The criminal process must adhere to a graded and proportionate approach. The power to issue a warrant is undoubtedly available; however, its exercise must be supported by cogent and compelling reasons. Mechanical or precipitous issuance of a warrant in a complaint case, at the threshold stage militates against established principles governing criminal procedure. The matter pertains to an accusation exclusively triable by the Court of Magistrate therefore, instead of issuing warrant of arrest at the first instance, the learned Magistrate ought to have issued summons.

5.4. Having regard to the aforesaid, and in order to secure the ends of justice, this Court feels it apt to exercise inherent powers vested in it and thus, it is ordered that the warrant of arrest issued against the petitioner shall remain stayed during the pendency of the appeal before the learned Sessions Judge. The petitioner shall, however, appear before the appellate court on the date fixed and shall cooperate in the expeditious disposal of the appeal.

5.5. Before parting, this Court deems it appropriate to reiterate that subordinate courts must exercise vigilant circumspection in matters pertaining to maintainability and jurisdiction. Where the

legislature has delineated a specific remedy and forum, such prescription must be scrupulously honoured. Entertaining a revision where an appeal lies under Section 33 is contrary to the statutory framework and cannot be countenanced.

6. With the aforesaid elaborate findings, observations, and directions, the present writ petition stands disposed of. All pending applications, if any, including the stay application, also stand disposed of accordingly.

(FARJAND ALI),J

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