



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

S.B. Criminal Miscellaneous (Petition) No. 4818/2023

Manvendra Singh Rathore @ Monu S/o Shri Bhagat Singh Rathore, Aged About 25 Years, R/o In Garh Borunda, Borunda, Jodhpur (Raj.)

----Petitioner

Versus

1. State of Rajasthan, through PP
2. Satyanarayan Agrwal S/o Shri Kewal Chand, R/o Merta City, Nagaur (Raj.)

----Respondents

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For Petitioner(s)	:	Mr. Lakshya Singh Udawata Mr. Chandan Singh Jodha
For Respondent(s)	:	Mr. Vikram Singh Rajpurohit, PP Ms. Deepika Vyas Mr. Sujana Ram, Inspector, SHO PS Borunda

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**HON'BLE MR. JUSTICE ANIL KUMAR UPMAN**

**Order**

**REPORTABLE**

**28/04/2026**

1. The instant criminal misc. petition under Section 482 Cr.P.C. has been filed on behalf of the accused petitioner seeking quashing of FIR No.01/2023 registered at Police Station Borunda, District Jodhpur Rural for offences punishable under Sections 447 and 427 of IPC.
2. Brief facts of the case are that on 02.01.2023, complainant Satyanarayan, submitted a report at Police Station Borunda *inter alia* alleging that he has a warehouse on Krishi Mandi Road, Borunda. To the east of the warehouse, there is a public road. The main-gate of the warehouse is also in the east side. In the west, there is a public road. To the north is a warehouse owned by Anilji Seriya, and to the south is Mangalaram's warehouse. It is



submitted in the report that he is the sole owner of the warehouse and has been in possession of the same for the last 40 years and using it for his own use without any restriction. The electricity bill of the warehouse is being paid in the name of his son Omprakash. It is alleged that on 20.12.2022, Monu, S/o Shri Bhagwat, Jeetu Singh S/o Shri Pappu, along with 10-15 others, with intention of taking possession of the warehouse, entered in the warehouse by breaking its lock and vandalized it and illegally inscribed name of Madhu Singh S/o Kishan Singh, on the outside of the warehouse. On 30.12.2022, when he came to know about this, he went to his warehouse and found Monu, Jeetu Singh, and 10-15 others there. When he asked them about the vandalism and writing of names in his warehouse, they openly threatened them that they would forcibly occupy his warehouse. They also threatened to kill him. On the basis of the report, the police has registered the impugned FIR (No.01/2023) for offences under Sections 447 and 427 IPC.

3. Learned counsel for the petitioner submits that the impugned FIR has been lodged with false, frivolous and baseless allegations and as such same deserves to be quashed and set aside. He submits that the petitioner has not committed any offence. He is totally innocent, however, the complainant side in connivance with the investigating agency, has falsely roped the accused petitioner in this case. He contends that as a matter of fact, the complainant has illegally encroached petitioner's warehouse no.23, patta whereof is issued in the name of grandfather of the petitioner. He submits that thus, the petitioner is not a wrongdoer whereas wrong has been committed with the petitioner by the complainant side, who is actually having illegal possession over the petitioner's





warehouse. It is also contended that the complainant and investigating agency are in hand in glove which is apparent from the fact that during initial investigation, only bailable offences i.e., 447 and 427 IPC are alleged to have been committed and the accused petitioner was enlarged on bail by the police upon furnishing bail bonds. However, later on, in order to make it a non-bailable case, Section 136 of the Electricity Act has been intentionally added to the FIR without any basis. In the FIR, there has been no whisper regarding the alleged damage, removing and theft of the electricity meter, installed at the disputed warehouse, by the accused petitioner attracting offence punishable under Section 136 of the Act. Further, in earlier investigation conducted by IO Mr. Hararam, ASI, no offence under Section 136 of the Act was found to be proved and no complaint was filed immediately by any official of the Electricity Department regarding alleged theft of electricity meter but surprisingly, statement of one Mr. Sushil Kumar, employee of the electricity department was recorded as late as on 25.07.2023 and offence for theft of electricity meter under Section 136 of the Act has been added. Learned counsel for the petitioner further argues that due to invocation of offence under Section 136 of the Act, the present case has turned into a non-bailable case and by effect whereof, investigating agency itself cancelled the bail bonds previously accepted by it, and therefore, the accused petitioner had to seek refuge before this Court, wherein he has been granted relief from arrest by order dated 24.08.2023. Learned counsel contends that even if the allegations in the FIR are accepted as true on the face of it, no offence under Section 136 of the Act is made out. He thus, prays





that the instant criminal misc. petition may be accepted and the impugned FIR may be directed to be quashed and set aside.

4. Per contra, learned Public Prosecutor and learned counsel for the complainant oppose the submissions made by counsel for the petitioner. Learned Public Prosecutor has submitted factual report dated 27.04.2026. Same is taken on record. It is contended by learned counsel for the complainant that though during earlier investigation, no offence under Section 136 of the Act was found proved but later on, in continuation of investigation, it was noticed and therefore, same has been added. The petitioner has levelled bald allegation against the complainant and investigating agency of unfair and partial investigation. The investigating agency after conducting detailed investigation in the matter, has opined that offences under Sections 451, 427 IPC and 136 of the Electricity Act have been found proved against the petitioner.

5. I have heard learned counsel for the parties and perused the material available on record. I have also perused case diary, brought by Shri Sujanaram, Inspector, SHO PS Borunda.

6. As per case diary, during investigation, it has been found that the complainant has been in possession of disputed warehouse (Plot No.23) since long whereas patta of the said plot is issued in the name of Shri Madho Singh, grandfather of the petitioner. Thus, there is a property dispute between the parties and during investigation, it has come out that the accused petitioner wanted to occupy his property from the complainant.

7. On going through the material available on record and the case diary, it becomes crystal clear that at the time of alleged incident, no charges or any other evidence pointing towards the





theft of electricity or theft of electric equipment had been put forward. Even the Electricity Department, which is the competent authority for dealing with such matters, did not consider it proper to file any FIR or initiate any case in this connection. Upon analysis of the FIR, it is evident that it mentions only bailable offences. It is to be noted that it was initially filed based on these grounds alone. However, later on, Section 136 of the Electricity Act has been added to the FIR which makes this case a non-bailable. This Court does not find any substantial evidence or support for adding offence under Section 136 of the Act. There is no basis for charge under Section 136 of the Act. The meter reader's report, which was made one month later than when the incident occurred, cannot in any manner support the invocation of Section 136. This report was not immediate, credible or corroborated. There were no records in evidence showing that such a report was made immediately and no action was taken. Normally, an action would have been taken if indeed there was an act of tampering with the electric meter. Thus, in light of above, the sequence of events strongly suggests that the addition of Section 136 lacks bona fides and appears to have been employed as a tool to unjustifiably curtail the liberty of the accused, rather than as a consequence of any genuine evidentiary development.

8. Another significant matter of controversy emerging from the instant petition is that if bail bonds are accepted once by the investigating authority, whether they can thereafter be cancelled by the investigating authority simply because serious offences, which are non-bailable in nature, have been included during the course of investigation.





9. The Court feels that such an act would be completely unjustifiable under any circumstances. Once bail bonds have been accepted, the investigating authority or the police officer loses his jurisdiction in that respect, and he cannot arrogate himself the right to cancel bail bonds. Bail bonds are a matter of judicial discretion and the only authority who is vested with such a power is the court itself. The inclusion of graver or non-bailable crimes in the process of investigation will not, per se, give the investigating agency the power to revoke automatically the bail bonds posted by the accused, which have already been accepted by the investigating agency. If, in the opinion of the investigating agency, due to subsequent events, the accused no longer has grounds for staying out on bail, then the proper procedure to follow is to go to the court having jurisdiction and file an appropriate application for the revocation of the bail in accordance with law.

10. Granting the investigating agency the power to revoke automatically the bail bond posted would not only violate legal doctrines but would also confer judicial functions to an agency not entitled to exercise judicial powers.

11. Accordingly, it is held that the investigating agency does not have jurisdiction to rescind bail bonds after accepting them, and in the event it resorts to such an act, it cannot be legally sustained. The only thing it can do is to apply to the competent court for revocation of bail by providing valid reasons.

12. Hence, in backdrop of the aforesaid discussion, I am of the considered opinion that in order to secure ends of justice, it is a fit case for exercise of this Court's inherent powers under Section 482 Cr.P.C and to hold that the facts revealed from the FIR and





case diary do not constitute offence under Section 136 of the Act and they do not call for invocation/addition of the offence under Section 136 of the Act. But bare perusal of the material available on record including case diary, prima facie discloses commission of cognizable offences and any interference at this stage would amount to thwarting a legitimate investigation. The allegations made in the FIR, prima facie disclose commission of cognizable offences and cannot be said to be absurd or devoid of the essential ingredients of the alleged offences and therefore, the present case does not fall within any of the categories enumerated by the Hon'ble Supreme Court in State of **Haryana v. Bhajan Lal** : **reported in 1990 INSC 363** warranting interference at the threshold. Thus, except for offence under Section 136 of the Act, I am not inclined to make out any comment with respect to prima facie commission of cognizable offences, as came out during investigation and proceedings in the impugned FIR for both such offences may continue as per law.

13. Since, this Court has already held in foregoing paragraphs that the Investigating Agency has no authority to cancel the bail bonds submitted by the accused once accepted, therefore, bail bonds earlier submitted by the petitioner shall remain in force.

14. The misc petition is thus, partly allowed. Stay application and pending application(s) also stand(s) disposed of.

**(ANIL KUMAR UPMAN),J**

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