

यह पत्र प्रतिष्ठान आचार्य पर
 संख्या 26135
 दिनांक 11/06/06
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 प्रशासनिक अधिकारी का निवास
 प्रतिष्ठान का नाम
 प्रजापति कला संस्थान, कोयंबूर





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

S.B. Criminal Revision Petition No. 1069/2024
CNR: RJHC010623642024 | URN: CRLR / 2483U / 2024

Rajnish Pathak S/o Shri Radheshyam Pathak, Aged About 48
Years, Flat No. 562, Guru Angad Nagar (West), Laxmi Nagar,
New Delhi. 110092.

-----Petitioner

Versus

Shivangi Pathak W/o Shri Rajnish Pathak, D/o Shri Omprakash
Kapuriya, I-D-65, Jainarayan Vyas Colony, Distt. Bikaner (Raj.)

-----Respondent

For Petitioner(s)	:	Mr. Salman Agha Mr. Danish Sherani
For Respondent(s)	:	Mr. Falgun Buch Mr. G.K. Chhangani

HON'BLE MR. JUSTICE ASHOK KUMAR JAIN

Order

29/09/2026



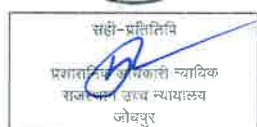
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1. Instant revision petition is preferred by the petitioner applicant aggrieved from order dated 10.7.2024 in Criminal Miscellaneous Case No. 533/2023 (CIS No. 638/2023) passed by Family Court No. 1, Bikaner in an application under Section 340 CrPC read with Section 195 IPC.
2. Learned counsel for petitioner submits that in pursuant to judgment in case of **Rajnesh versus Neha reported in (2021) 2 SCC 324**, the parties to case No. 355/2020 under Section 125 of CrPC has filed details with affidavit, but non-petitioner not only concealed the material fact but has filed wrong details before the trial court. He also submitted that the concealment of relevant information which would clearly



reflect the financial condition of non-petitioner applicant is an offence which required to be investigated by the family court. He also submitted that instead of investigation, the judge has dismissed the application. He also submitted that when a specific allegation is made by non-petitioner and allegations have substance, then it is duty of the trial court to make an enquiry under Section 340 CrPC.

3. Aforesaid contentions were opposed by learned counsel appearing on behalf of non-petitioner applicant and submitted that both the parties to the family court proceedings were directed to file affidavit and non-petitioner has filed affidavit before the trial court, which is sufficient to show that the affidavit was filed on the basis of information with non-petitioner and there is no concealment.
4. Heard learned counsel for the parties and perused the material placed on record.
5. In a proceeding before the family court instituted under Section 125 CrPC, both the parties have filed their affidavit in miscellaneous case No. 354/2020 and 355/2020 filed under Section 125 CrPC. The petitioner has mentioned details of assets and liabilities in his own affidavit. The non-petitioner has also filed an affidavit and according to her she has no income. She has not mentioned name of employer along with any other details including details of fixed deposit. The petitioner non-applicant has filed an application indicating that the non-petitioner is having agricultural land and she is working as consultant and earning from coaching and consultancy. It was further mentioned that non-

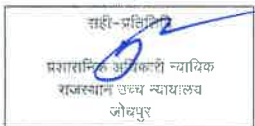


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petitioner was proprietor of a firm and further she has passed MBA. The details about transfer of money and further fixed deposit in the name of non-petitioner was also concealed. Though these allegations in the application were denied by the non-petitioner, but when this matter was taken up by the trial court, then without considering the allegations, the trial court has dismissed the application under Section 340 of CrPC.

6. After enactment of BNSS 2023, Chapter XXVIII was introduced as provisions as "to offence affecting the administration of justice". Section 379 provides for procedure in cases mentioned in Section 215. Section 379 of BNSS (corresponds to Section 340 of CrPC). Section 215 of BNSS (corresponds to Section 195 CrPC) provides for prosecution for contempt of lawful authority of public servants, for offence against public justice, and for offences relating to documents given in evidence. Chapter XIV has been enacted in BNSS 2023 under the head "of false evidence and offences against public justice". Section 227 of BNS 2023 (corresponds to Section 191 IPC), provides for giving false evidence. The punishment has been provided under Section 229 of BNS (corresponds to Section 193 of IPC). Section 246 of BNS (corresponds to Section 209 of IPC) provides for punishment in case anyone with dishonest intention or with fraudulent means makes false claim in court, whatever be the offence, if any committed by non-petitioner applicant. The court has to consider the concealment and submissions of wrong information pursuant

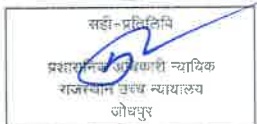


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to directions in case of **Rajnish versus Neha (supra)**. The submissions of affidavit in pursuant to direction is not an empty formality. No party is expected to file incorrect details or conceal any material fact. It is duty of every court to prevent any party from polluting the fountain of justice.

7. Having considered the facts mentioned in the application by the petitioner, it was duty of the trial court to enquire into the material, particularly when substantive information has been disclosed in the application by the petitioner for prosecution of non-petitioner. If non-petitioner has committed any offence, then certainly she is liable as she is under an obligation to disclose true facts and correct details in her affidavit.
8. In view of discussion made herein above, the trial court, without examining the record, has decided application by order dated 10.7.2024, which is per se illegal, thus there is a prima facie case which warrants an enquiry as contemplated under Section 379 of BNSS (corresponds to 340 of CrPC), therefore the revision petition is liable to be allowed.
9. In view of discussion made herein above, the revision petition preferred by petitioner is hereby allowed and impugned order dated 10.7.2024 in Criminal Miscellaneous Case No. 533/2023 passed by the Family Court No. 1, Bikaner is hereby set aside. The matter is remitted back to the trial court with direction to hold an enquiry and pass appropriate order in accordance with law. The parties are directed to appear before the family court on 15.10.2026.



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[2026:RJ-JD:47574]

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10. Accordingly, revision petition preferred by petitioner is disposed of. Miscellaneous application, if any, stands disposed.

(ASHOK KUMAR JAIN),J

6/PREETI VALECHA

3/10/26



राष्ट्रीय न्यायालय
प्रशासनिक अधिकारी न्यायिक
राजस्थान उच्च न्यायालय
जोधपुर

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26135	संख्या प्रारंभिक एड	1.	प्रतिनिधि सूची
3/10/26		2.	
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RS-10/1	प्रतिनिधि	9.	
Recd	प्रमाण	10.	
P-5	प्रतिनिधि	11.	

प्रतिनिधि सूची
प्रमाणित है।
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