



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



S.B. Criminal Miscellaneous (Petition) No. 975/2025

Sonu Ram Pachauri S/o Late Shri Shibbo, Aged About 32 Years,
R/o Village Chitaura, Distt. Dholpur, Police Station Kolari, Distt.
Dholpur (Raj).

-----Victim-Petitioner

Versus

1. State Of Rajasthan, Through P.p.
2. Puran Singh S/o Shri Chotelal, Through His Biological Son
Ved Prakash Tyagi S/o Puran Singh R/o Village Chitaura,
Distt. Dholpur, Police Station Kolari, Distt. Dholpur (Raj).

-----Accused-Respondents

For Petitioner(s)	:	Mr.Nirmal Kumar Sharma with Mr.Anurag Chahar
For Respondent(s)	:	Mr.Amit Punia, PP

JUSTICE ANOOP KUMAR DHAND

Order

08/12/2025

1. By way of filing the instant criminal misc. petition, a challenge has been made to the impugned order dated 05.12.2024 passed by the Additional Sessions Judge, Dholpur by which the custody of the accused Puran Singh has been handed over to his son on the ground that the accused-Puran Singh is suffering from severe dementia with behavioural problems leading to severe cognitive impairment.
2. Learned counsel for the petitioner submits that the condition of the accused-Puran is not as such that he could not face the trial. Hence, under these circumstances, interference of this Court is warranted.



3. Before proceeding further to decide the instant matter, this Court deems it just and proper to quote the relevant provisions with regard to the issue involved in the instant petition. The provisions contained under Chapter XXV of the Code of Criminal Procedure, deals with the accused-persons of unsound mind. Section 329 therein reads as under:-



"329. Procedure in case of person of unsound mind tried before Court.—(1) If at the trial of any person before a Magistrate or Court of Session, it appears to the Magistrate or Court that such person is of unsound mind and consequently incapable of making his defence, the Magistrate or Court shall, in the first instance, try the fact of such unsoundness and incapacity, and if the Magistrate or Court, after considering such medical and other evidence as may be produced before him or it, is satisfied of the fact, he or it shall record a finding to that effect and shall postpone further proceedings in the case.

1 [(1A) If during trial, the Magistrate or Court of Sessions finds the accused to be of unsound mind, he or it shall refer such person to a psychiatrist or clinical psychologist for care and treatment, and the psychiatrist or clinical psychologist, as the case may be shall report to the Magistrate or Court whether the accused is suffering from unsoundness of mind:

Provided that if the accused is aggrieved by the information given by the psychiatric or clinical psychologist, as the case may be, to the Magistrate, he may prefer an appeal before the Medical Board which shall consist of—

- (a) head of psychiatry unit in the nearest government hospital; and
- (b) a faculty member in psychiatry in the nearest medical college.]

2 [(2) If such Magistrate or Court is informed that the person referred to in sub-section (1A) is



a person of unsound mind, the Magistrate or Court shall further determine whether unsoundness of mind renders the accused incapable of entering defence and if the accused is found so incapable, the Magistrate or Court shall record a finding to that effect and shall examine the record of evidence produced by the prosecution and after hearing the advocate of the accused but without questioning the accused, if the Magistrate or Court finds that no prima facie case is made out against the accused, he or it shall, instead of postponing the trial, discharge the accused and deal with him in the manner provided under section 330:

Provided that if the Magistrate or Court finds that a prima facie case is made out against the accused in respect of whom a finding of unsoundness of mind is arrived at, he shall postpone the trial for such period, as in the opinion of the psychiatrist or clinical psychologist, is required for the treatment of the accused.

(3) If the Magistrate or Court finds that a prima facie case is made out against the accused and he is incapable of entering defence by reason of mental retardation, he or it shall not hold the trial and order the accused to be dealt with in accordance with section 330.]”

4. Bare perusal of the aforesaid provisions clearly indicating that the provisions deals with the procedure in case, a person is found to be unsound mind before the Court and before forming any opinion also as to whether an accused is suffering from unsoundness of mind or not or whether such accused is in a fit condition to face the trial or not, the learned Magistrate is required to get the information/ opinion of a Psychiatrist and Clinical Psychologist of a Medical Board, which shall consist of the head of the psychiatry unit from the nearest Government Hospital along-



with a Faculty Member of Psychiatry from the nearest Medical College.

5. Though a Medical Board has been constituted by the orders passed by the Trial Court and the following opinion has been given by the constituted Medical Board, which reads as under:-

"Medical Board Examination Report of Shree Pooran Singh S/o Chotelal Tyagi

Office Order-सामान्य/2024/886 दिनांक 30/03/2024 of PMO District Hospital Dholpur (Raj.)

Brought By- Shree Roop Singh (HC1262)

Above named was presented and assessed by medical board members constituted by PMO Dholpur through letter no as mentioned above on 01/04/2024 in Psychiatry OPD of district Hospital Dholpur. He was assessed through Appropriated available psychological tools. After detailed current evaluation and examination of his post treatment records. The Board is of the opinion that Shree Pooran Singh's current mental state examination is not found to be within normal limits and found to be suffering from Severe Dementia ē Behaviour problems leading to severe cognitive impairment.

Mark of Identification - A Black Mole over (L) Side Cheek"

6. Perusal of the aforesaid report, as furnished by the Medical Board does not indicate that as to whether the petitioner is not in a fit position to understand the proceedings of the trial pending against him. Unless and until, a specific opinion is given by the





Medical Board, the matter cannot proceed further against the accused in accordance with law.

7. In the considered opinion of this Court, a fresh Medical Board is required to be constituted in terms of Section 329 Cr.P.C. The Superintendent of S.M.S. Medical College, Hospital is directed to constitute a Medical Board consisting of the Head of Psychiatry Unit along-with a Faculty Member of Psychiatry and thereafter, send his report and specify the mental state of the accused-respondent after thorough examination and apprise this Court as to whether the accused-respondent is mentally fit to understand and participate in the Court proceedings.

8. Office is directed to send a copy of this order to the Superintendent, S.M.S. Medical College, Hospital, Jaipur for its compliance.

9. The learned Public Prosecutor is directed to instruct the concerned Investigating officer ask the accused-respondent to appear before the Medical Board on 18.12.2025.

10. List the matter on 05.01.2026.

(ANOOP KUMAR DHAND),J

Aayush Sharma /78

