



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

S.B. Criminal Misc(Pet.) No. 5866/2025

Chandra Kant Ramawat S/o Shri Badri Das Ramawat, Aged
About 46 Years, R/o Ramdev Colony, Jalore.

-----Petitioner

Versus

1. State Of Rajasthan, Through Public Prosecutor
2. Superintendent Of Police Anti Corruption Bureau, Jalore

-----Respondents

For Petitioner(s)	:	Mr. Ankur Mathur Mr. Harshvardhan Thanvi
For Respondent(s)	:	Mr. Narendra Singh Chandawat, PP Mr. Mangi Lal Rathore, A.S.P., Chowki Jalore, A.C.B.

HON'BLE MR. JUSTICE KULDEEP MATHUR

Order

REPORTABLE

29/07/2025

1. By way of filing instant criminal misc. petition under Section 528 BNSS, 2023, the petitioner has prayed for the following reliefs:-

"It is, therefore, most humbly and respectfully prayed that this Criminal Misc. Petition may kindly be allowed and the impugned F.I.R. No.349/2022 registered at Police Station ACB Jodhpur, and further consequential proceedings pursuant to impugned FIR may kindly be quashed and set-aside."

2. Brief facts of the case are that one Brijesh Meena filed a complaint on 02.09.2022 before Additional Superintendent of Police, A.C.B. (Special Unit), Jodhpur alleging *inter alia* that the present petitioner and the principal of Kasturba Awasiya School, Ummedabad namely Khusbhoo Gehlot, have demanded gratification to the tune of Rs.3,000/- to settle a complaint received against the complainant in a particular manner. The



officials of A.C.B. thereupon, initiated trap proceedings and caught Khusbhoo Gehlot red handed. The petitioner was later on, arrested by the officials of A.C.B.

3. Learned counsel for the petitioner submitted that petitioner has been falsely implicated in the present case. Learned counsel submitted that while the petitioner was holding the post of Coordinator, he was asked to conduct inquiry in relation to a complaint submitted against the complainant in the present case namely Brijesh Meena. Learned counsel contended that the allegation of demand of gratification levelled against the petitioner is absolutely false as the inquiry report in relation to aforementioned complaint was completed by the petitioner on 27.08.2022 and report had been submitted before District Collector, Jalore prior to the date of trap proceedings conducted by the officials of A.C.B. Learned counsel further submitted that as a matter of fact, the petitioner was transferred on 26.08.2022 from the post of Assistant Project Coordinator Jalore to Bikaner much before the date on which the trap proceedings were conducted.

4. Learned counsel while drawing attention of the Court towards statutory provisions of Section 17-A of Prevention of Corruption (Amended) Act, 2018 (for short 'The P.C. Act, 2018') submitted that since the petitioner was not caught red handed and the fact that the allegation against him relates to a recommendation/decision taken on a complaint submitted against complainant- Brijesh Meena, no police officer could have conducted any enquiry, inquiry and investigation against the petitioner without prior approval of the concerned competent authority.



5. Lastly, learned counsel submitted that in the present case, the entire investigation has been conducted by a police official of the rank of Inspector which is not in consonance with the scheme of the P.C. Act, 2018. Furthermore, Section 17 of the P.C. Act, 2018 mandates that investigation shall be conducted by a police officer not below the rank of Deputy Superintendent of Police. Therefore, the impugned FIR and further proceedings in relation to thereto are liable to be quashed and set aside.

6. Learned counsel in support of his arguments has placed reliance on the following judgments passed by this Court and Hon'ble the Supreme Court of India:-

- (1) Rajesh Kumar Meel v. State of Rajasthan & Anr. in S.B. Criminal Revision Petition No.307/2023 dated 09.09.2024.
- (2) Mahendra Kumar Soni v. State of Rajasthan & Anr. in S.B. Criminal Revision Petition No.281/2023 dated 28.08.2024.
- (3) Babu Lal v. State of Rajasthan in S.B. Criminal Appeal (Sb) No.2556/2023 dated 16.08.2024.
- (4) Sourabh Garg v. State of Rajasthan in S.B. Criminal Misc. Petition No.6337/2021 dated 27.01.2022.
- (5) Kailash Chandra Agarwal & Anr. v. State of Rajasthan & Anr. in Criminal Misc. Petition No.159/2018 dated 07.04.2020.
- (6) Ranidan Singh v. State of Rajasthan & Anr. in S.B. Criminal Misc. Petition No.1219/2022 dated 08.10.2024.
- (7) Himanshu Yadav v. State of Rajasthan & Anr. in S.B. Civil Writ Petition No.17545/2021 dated 19.01.2022.
- (8) State of Rajasthan v. Tejmal Choudhary in Criminal Appeal No.1647/2021 arising out of SLP (Crl.) No.4818/2021.
- (9) State Inspector of Police, Visakhapatnam v. Surya Sankaram Kurri in Criminal Appeal No.1335/2004 decided on 24.08.2006.
- (10) Yashwant Sinha & Ors. v. Central Bureau of Investigation & Ors. reported in (2020)2 SCC 338.
- (11) Nara Chandrababu Naidu v. State of Andhra Pradesh arising out of Petition for Special Leave to Appeal (Criminal) No.12289/2023 decided on 16.01.2024.



7. *Per contra*, learned Public prosecutor has vehemently opposed the instant criminal petition. Learned Public Prosecutor has placed reliance on the following judgments passed by this Court as well as Hon'ble the Supreme Court of India:-

- (1) Central Bureau of Investigation v. Santosh Karnani & Anr. in Criminal Appeal No.1148/2023 arising out of Special Leave Petition (Criminal) No.295/2023.
- (2) Rajesh Kumar v. State of Rajasthan & Anr. in S.B. Criminal Misc. Petition No.427/2022 vide order dated 18.02.2022.

8. Heard learned counsel for the parties at bar. Perused the case diary made available to this Court by the Investigating Officer.

9. Section 17-A of the P.C. Act, 2018 reads as under:-

"17A. Enquiry or Inquiry or investigation of offences relatable to recommendations made or decision taken by public servant in discharge of official functions or duties.- No police officer shall conduct any enquiry or inquiry or investigation into any offence alleged to have been committed by a public servant under this Act, where the alleged offence is relatable to any recommendation made or decision taken by such public servant in discharge of his official functions or duties, without the previous approval-

(a) *in the case of a person who is or was employed, at the time when the offence was alleged to have been committed, in connection with the affairs of the Union, of that Government;*

(b) *in the case of a person who is or was employed, at the time when the offence was alleged to have been committed, in connection with the affairs of a State, of that Government;*

(c) *in the case of any other person, of the authority competent to remove him from his office, at the time when the offence was alleged to have been committed:*

Provided that no such approval shall be necessary for cases involving arrest of a person on the spot on the charge of accepting or attempting to accept any undue advantage for himself or for any other person:



Provided further that the concerned authority shall convey its decision under this section within a period of three months, which may for reasons to be recorded in writing by such authority, be extended by a further period of one month."

[emphasis supplied]

10. From the perusal of the case diary, this Court finds that the conversation between co-accused Khushboo Gehlot and petitioner regarding her accepting the gratification, on her own behalf as well as on behalf of the petitioner, has been recorded. The said telephonic evidence *prima facie* indicates the complicitness of the petitioner in commission of the alleged crime which is something more than a mere needle of suspicion against the petitioner.

11. True it is, that requirement of prior approval under Section 17-A of the P.C. Act, 2018 is aimed to protect public officials from malicious, vexatious and baseless complaints that might be filed in relation to any recommendation made or decision taken by the public officials in discharge of official functions or duties. The expression '**recommendation**' and '**decision**' used under the said Section refers to reasoned, objective and non-arbitrary exercise of discretion while performing official duties in quasi-judicial or pure administrative capacity but at the same breath, it cannot be made a tool or used as an unbridled shelter to protect corrupt government officials who have made any recommendation or had taken a particular decision for their personal benefit.

12. In the opinion of this Court, in a case where accusation regarding corruption has to be judged or inferred on the basis of quasi-judicial/administrative decisions/recommendations made by the public officials in official files in discharge of official functions or duties, then the previous/prior approval of the competent



authority is mandatory before prosecuting him/her as per the mandate of Section 17-A of P.C. Act, 2018. This Court is of the firm view that in cases where *prima facie* electronic evidence in form of voice recording/video recording etc. are available against accused and solely his/her quasi-judicial/administrative decisions/recommendations are not to be assessed or evaluated to find out correctness or truthfulness of the accusation, then it would be a travesty of justice if the prosecution against him is not allowed to be initiated/continued.

13. From the material placed on record, it is apparent that complainant- Brijesh Meena in the complaint submitted to the officials of the A.C.B. in unambiguous terms has levelled allegations that co-accused- Khushboo Gehlot has demanded gratification on her own behalf and also on behalf of petitioner. Thereupon, when the trap was conducted, Khushboo Gehlot was arrested on spot and her conversation with petitioner regarding her acceptance of bribe on behalf of both the accused persons was recorded. Thus, the allegations levelled against the petitioner are very serious and not merely to be assessed from the quasi-judicial order/recommendation.

As far as question with regard to the authenticity/correctness of the audio recording/conversation between petitioner and co-accused are concerned, the same is a matter to be decided by the learned trial Court on the basis of the material and evidence produced before it. The judgments cited at bar by the learned counsel for the petitioner have been passed in peculiar facts and circumstances of each case.



14. In that view of the matter, the prayer for quashing of the impugned FIR on the basis of the breach of mandatory procedure provided under Section 17-A of the P.C. Act, 2018 has no merit and the same therefore, deserves to be rejected.

15. Learned counsel also raised an argument with regard to competence of Inspector, A.C.B. to conduct inquiry in the matter. It has also been contended that the complaint made against petitioner is without any basis as on the date of trap proceedings, no work of complainant was pending. In that regard, suffice it to note that Governor of Rajasthan on 10.02.1978 was pleased to issue notification No.F1/6(40)(Group-5)/77 authorizing Police Inspectors working with A.C.B. to conduct enquiry, inquiry, investigation and arrest in relation to in the offences arising out of P.C. Act.

16 The question regarding no work of the petitioner as alleged being pending on the date of complaint/trap is concerned, the same cannot be gone into at this stage. The said aspect is a matter of fact to be decided by the learned trial Court. In light of the telephonic conversation between co-accused and petitioner, there is *prima facie* evidence indicating towards demand of bribe for performance of official act.

17. In view of aforesaid, this Court finds no merit in the instant criminal misc. petition and the same is, therefore, dismissed.

18. All pending applications also stand dismissed.

(KULDEEP MATHUR),J

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