



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

S.B. Criminal Miscellaneous (Petition) No. 3302/2023

Smt. Shobha Rani Kushwah W/o Shri Banwari Lal Kushwah, Aged About 45 Years, Resident Of Jamalpur, Ps Kolari, District Dholpur (Rajasthan).

----Petitioner

Versus

1. State Of Rajasthan, Through Public Prosecutor.
2. Shyambabu Sharma S/o Mahesh Chand Sharma, R/o Mathura Darwaja, Kaman, District Bharatpur.
3. Shrinath Sharma S/o Baldev Sharma, R/o Govind Mohalla, Kaman, District Bharatpur.
4. Ashok Pujari S/o Ramesh Chand, R/o Kalyan Mohalla, Kaman, District Bharatpur.
5. Yogesh Sharma S/o Harniram Sharma, R/o Dhola Kuan, Kaman, District Bharatpur.
6. Shyambabu Sharma S/o Bhagwan Das, R/o Mathura Darwaja, Kaman, District Bharatpur.
7. Totaram Saini S/o Gopal Ram, R/o Karmular, Kaman, District Bharatpur.

----Respondents

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For Petitioner(s) : Mr.Madhav Mitra, Sr.Adv. With Ms.Jaya Mitra

For Respondent(s) : Mr.Rhishi Raj Singh Ratore, PP Mr.Mukesh Kumar Saini for Mr.Ankit Khandelwal

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**HON'BLE MR. JUSTICE SAMEER JAIN**

**Order**

1	Arguments concluded on	01/12/2025
2	Judgment Reserved on	01/12/2025
3	Full Judgment or Operative Part Pronounced :	Full Judgment
4	Pronounced on	3/12/2025



1. The present Criminal Miscellaneous Petition has been instituted by the petitioner under Section 482 Cr.P.C., seeking quashing of -

(i) The order dated 12.05.2023 passed by the learned Additional Sessions Judge (Women Atrocities Cases), Bharatpur, in Criminal Revision Petition No.05/2023, and

(ii) The cognizance order dated 18.10.2022 passed by the learned Additional Chief Judicial Magistrate No.2, Bharatpur in Criminal Case No.522/2022, whereby cognizance was taken for the offences under Sections 420, 406 and 120-B IPC.

2. At the outset, it was apprised to the Court that the matter has been placed before this Court on priority pursuant to the directions of Hon'ble the Chief Justice, in terms of the mandate of the Hon'ble Supreme Court regarding early adjudication of matters pertaining to MPs and MLAs; and the petitioner is an MLA from Dholpur belonging to the non-ruling party.

3. Learned Senior Counsel, Mr. Madhav Mitra, assisted by learned counsel Ms. Jaya Mitra, appearing for the petitioner submitted that the genesis of the proceedings lies in FIR No.17/2017, registered on 13.01.2017 at Police Station Mathura Gate, Bharatpur, under the aforementioned provisions. It was submitted that upon conclusion of investigation, a charge-sheet came to be filed only against certain co-accused persons, and proceedings under Section





173(8) Cr.P.C. were kept pending. Subsequently, cognizance was taken on 18.10.2022 against the co-accused persons; and being aggrieved of which, the petitioner preferred a revision petition which came to be dismissed on 12.05.2023.

4. Learned Senior Counsel further contended that the petitioner is a lady, who is neither associated with the management nor is she a member of the Board of Directors of the company in question, rather she is merely a shareholder, which, by itself, does not entail participation in the day-to-day functioning or decision-making of the company. It was also submitted that no material whatsoever has been collected during investigation to suggest the petitioners' involvement in the alleged acts. It was urged that a shareholder's liability is limited, and no vicarious criminal liability can be fastened merely on the strength of holding shares in a company. It was submitted that the said is the basic principle of law *actus non facit reum nisi mens sit rea* meaning, an act does not render a person guilty unless the mind is guilty, nonetheless, in the matter at hand there is no mens rea attributed to the petitioner.

5. It was further pointed out that no charge-sheet was filed against the petitioner, nor were any proceedings kept pending against her under Section 173(8) Cr.P.C., clearly demonstrating absence of any incriminating material in the investigation. On these grounds, it was argued that continuation of criminal proceedings would be an abuse of





the process of law, thus entitling the petitioner to relief under Section 482 Cr.P.C. It was next urged that the complainants had registered proceedings earlier in the state of Chhattisgarh and then again in Punjab, where also the petitioner was neither named nor implicated. She merely holds 8000 shares in the company, and even qua her relatives, charge-sheets alone were filed.

6. Learned Senior Counsel submitted that a compromise has already been entered into with the complainant/respondents whose service has been effected, and the dispute is purely private and civil in nature, involving financial transactions between investors and the company. In support of the submissions made insofar, reliance was placed on the ratio encapsulated in **Gian Singh v. State of Punjab, (2012) 10 SCC 303**, wherein the Apex Court held that criminal proceedings arising out of commercial or financial transactions with predominantly civil flavour may be quashed in the exercise of inherent powers, especially upon compromise. It was also brought to the notice of this Court that on 11.11.2024, the co-accused named in the FIR were acquitted, thereby rendering the substratum of the prosecution case non-existent qua the present petitioner.

7. In this background, learned counsel for the respondents sought time to obtain instructions, as recorded in order dated 10.11.2025.





8. Learned Public Prosecutor had stoutly opposed the petition; however, no substantive or convincing rebuttal was advanced against the factual submissions made on behalf of the learned senior counsel appearing on behalf of the petitioner.

9. On behalf of the respondents, one Mr. Mukesh Kumar Saini, appearing for Mr. Ankit Khandelwal, did not dispute the fact of compromise; rather, supported the same.

10. Upon an assiduous scanning of record, having heard the submissions made by the respective parties, and considering the catena of judgments, as passed by Hon'ble Supreme Court, this Court is of a considered view that as in the instant matter no charge-sheet has been filed against the petitioner; that the petitioner is merely a shareholder, and not a part of the management; that no material indicates the petitioners' participation in the alleged acts; that the dispute between the parties has been amicably settled by way of signing of a compromise deed; that the co-accused have already been acquitted; that continuation of proceedings would be a futile exercise.

11. It is well-settled that the inherent power under Section 482 Cr.P.C. is intended to prevent miscarriage of justice, to secure the ends of justice, and to prevent abuse of the process of the Court, guided by the maxim *quando lex aliquid alicui concedit, concedere videtur et id sine quo res ipsa esse non potest* meaning when the law gives anything,





it gives that without which the thing itself cannot exist. Further, the Hon'ble Supreme Court in **Gian Singh (supra), State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335, and Narinder Singh v. State of Punjab, (2014) 6 SCC 466**, has categorically held that where the dispute is overwhelmingly civil in nature, and where the possibility of conviction is remote due to lack of evidence, and further where parties have settled the dispute, the High Court may quash criminal proceedings to secure ends of justice. The relevant extract from **Gian Singh (supra)** is reproduced herein below:

*"57. The position that emerges from the above discussion can be summarised thus: **the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plentitude with no statutory limitation but it has to be exercised in accordance with the guideline engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. In what cases power to quash the criminal proceeding or complaint or F.I.R may be exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed.***

12. The present case squarely falls within these parameters. There is no mens rea on part of the petitioner, no overt act, and no vicarious liability attributable to the





petitioner. Thence, the petitioner cannot be compelled to face criminal trial in absence of any cogent material.

13. In view of the aforesaid discussion, this Court is satisfied that continuation of proceedings against the petitioner would amount to abuse of the process of law. Accordingly, the order dated 12.05.2023 passed by the learned Additional Sessions Judge (Women Atrocities Cases), Bharatpur, and the cognizance order dated 18.10.2022 passed by the learned Additional Chief Judicial Magistrate No.2, Bharatpur, are hereby quashed and set aside.

14. Therefore, invoking the inherent jurisdiction of the High Court as per the provisions of Section 482 of Cr.P.C. now Section 528 of B.N.S.S. the instant petition is allowed. Pending applications, if any, shall stand disposed of.

(SAMEER JAIN),J

Preeti Asopa

