

# Sardanand vs State Of Rajasthan (2024:Rj-Jd:44132) on 4 November, 2024

**Author: Farjand Ali**

**Bench: Farjand Ali**

[2024:RJ-JD:44132]

(1 of 2)

[CRLMP-2589/2023]

HIGH COURT OF JUDICATURE FOR RAJASTHAN AT  
JODHPUR

S.B. Criminal Misc(Pet.) No. 2589/2023

Sardanand S/o Birdichand Prajapat, Aged About 63 Years, R/o  
Ward No. 30 Sardarshahar Tehsil Sardarshahar Dist. Churu Raj.

----Petitioner

Versus

State Of Rajasthan, Through Pp

----Respondent

For Petitioner(s)	:	Mr. Deen Dayal Chitlangi
For Respondent(s)	:	Mr. Vikram Rajpurohit, Dy.G.A. Mr. Ravindra Singh, AGA

HON'BLE MR. JUSTICE FARJAND ALI

Order 04/11/2024

1. The instant criminal miscellaneous petition has been preferred seeking quashing of the order dated 14.02.2017 passed by the learned magistrate whereby the learned magistrate took cognizance of the offences under Sections 420, 272, 120-B IPC, Section 63 of the Copyright Act and Sections 51, 52 and 59 of the Food Safety and Standard Act. The revision petition preferred on behalf of the petitioner is also dismissed. Hence, this instant petition challenging the legality and propriety of the both orders.

2. Heard learned counsel for the petitioner, learned Dy.G.A. and gone through the material as made available before this Court.

3. Learned Dy.G.A. raised a serious question with regard to the maintainability of instant misc. petition by contending that the instant petition is nothing but a second revision petition in guise and colour of the criminal misc. petition. He urges that by virtue of [2024:RJ-JD:44132] (2 of 2) [CRLMP-2589/2023] the clause (3) of Section 397 of the Cr.P.C. a second revision is not maintainable by the same party. He further contends that the order taking cognizance is passed by

magistrate and legality of the same has duly been examined by the learned session judge, however, the petitioner is again seeking examination of legality and reasonability of the same order which is not permissible in law. Section 397(3) of the CrPC reads as under :

"If an application under this section has been made by any person either to the High Court or to the Sessions Judge, no further application by the same person shall be entertained by the other of them."

4. An order taking cognizance has duly been examined by learned session judge with whom the power under Section 397/401 Cr.P.C. are available and the learned session judge exercises it in the same line as it is exercised by this Court. There is no distinction regarding examination of the record so as to satisfy the Court in respect of the legality, correctness and propriety of the order either by the High Court or by the Court of Session, which has been aptly examined by the sessions judge. Thus, in the case at hand the bar contained under Section 397(3) Cr.P.C. would operate. Accordingly, the misc. petition is dismissed.

5. Needless to say that nothing would preclude the petitioner from raising the legal objections before the trial court at a subsequent stage.

(FARJAND ALI),J 6-chhavi/-

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