



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

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S.B. Criminal Revision Petition No. 1558/2017

Bhirma Ram S/o Narayan Ram, by caste Gurjar, R/o Devnagar, Khariya Khangar, P.S. Borunda, District Jodhpur. Presently Residing Behind Shriram Hospital, Banar Road, Jodhpur.

----Petitioner

Versus

State Of Rajasthan

----Respondent

Connected With

S.B. Criminal Revision Petition No. 1477/2017

Dinesh Jayani S/o Sh. Dayaram Jayani, R/o 81 Saran Nagar, Near Mahadev Tractor Repairing, Banar Road, Jodhpur.

----Petitioner

Versus

The State Of Rajasthan Through Public Prosecutor.

----Respondent

S.B. Criminal Revision Petition No. 1559/2017

Rajpratap Singh S/o Narendra Singh, by caste Rajput, Resident Of Basni, Jodhpur Raj.

----Petitioner

Versus

State Of Rajasthan

----Respondent

For Petitioner(s)	:	Mr. J.S. Choudhary Sr. Adv. Assisted by Mr. Tarun Dhaka Mr. Muktesh Maheshwari Mr. Vineet Jain
For State	:	Mr. Rajesh Bhati, P.P

**HON'BLE MR. JUSTICE PANKAJ BHANDARI****Judgment****29/09/2018**

1. Petitioners Bhirma Ram, Dinesh Jayani and Rajpratap Singh have preferred separate revision petitions aggrieved by common order dated 05.09.2017 passed by Court of Special Judge, NDPS Cases (Sessions Judge, Pali), Pali, whereby the Court has decided to frame charges against Bhirma Ram and Raghvendra Singh for offence under Section 8/18 of NDPS Act read with Section 120-B of I.P.C. and against the accused Dinesh Jayani and Rajpratap Singh for offence under Section 8/18 of NDPS Act and Sections 379 & 201 of I.P.C.

2. Since all the revision petitions assail the common order dated 05.09.2017, the revision petitions are decided by this common order.

3. It is contended by learned Senior Counsel Mr. J.S. Choudhary appearing for petitioner-Bhirma Ram that there was no evidence against Bhirma Ram and the only evidence against him was that he was in touch with co-accused Dinesh Jayani.

4. It is contended that Bhirma Ram is shown to be in the same coach and since he was consistently in telephonic conversation with co-accused Dinesh Jayani, Court has decided to proceed against him. Court has erred in framing charges for the alleged offence under Section 8/18 of NDPS Act read with Section 120-B of I.P.C., as Bhirma Ram was not in possession of the contraband.

5. Learned counsel Mr. Muktesh Maheshwari appearing for accused Dinesh Jayani has contended that there was allegation against Dinesh Jayani that he was having affair with wife of Hari



Om and that he threatened Hari Om not to marry Dipti. It is argued that after contraband was recovered from the bag belonging to Hari Om, he has been falsely implicated.

6. It is also contended that there is no evidence to the effect that the contraband was planted by Dinesh Jayani or by Rajpratap Singh, on the instructions of Dinesh Jayani.

7. It is further contended that merely because Dinesh Jayani had telephonic conversation with other persons and more particularly Bhirma Ram, it cannot be considered that he was instrumental in putting contraband in the bag of Hari Om.

8. Learned counsel Mr. Vineet Jain appearing for petitioner-Rajpratap Singh contends that Police has falsely submitted a charge-sheet against Rajpratap Singh. There is no evidence to the effect that Rajpratap Singh was at Abu Road and he put the contraband in the bag of Hari Om on the date of alleged offence.

9. Learned Public Prosecutor has opposed the present revision petitions. His contention is that an information was received by the GRP Thana that passenger on Seat No.36 in Coach No.1 Compartment might be carrying contraband.

10. On search a plastic bag, two *namkeen* packets, Rajasthan Patrika published at Pali on 06.06.2015 & 16.09.2015 were recovered. Recovery of newspaper published at Pali on 16.09.2015 created doubt and thorough investigation was conducted by the Police. On interrogation, it is revealed that the contraband was got planted by Dinesh Jayani with the aid of Bhirma Ram and Rajpratap Singh. Bhirma Ram was accompanying Hari Om in the same compartment of the train and was giving intimation to Dinesh Jayani about the movement of the train. After implanting contraband in the bag of Hari Om. Petitioner-Bhirma Ram got



down at Abu Road and he along with Dinesh Jayani, Rajpratap Singh and driver Raghvendra Vyas proceeded to Jodhpur from Abu Road.

11. It is also contended by learned Public Prosecutor that statement of owner of the vehicle has been recorded who has stated that Dinesh Jayani had taken the vehicle and he had asked his driver to accompany Dinesh Jayani.

12. It is further contended that record of Toll-Booth has also been obtained which establishes that the vehicle went towards Abu Road. On 17.09.2015 the vehicle crossed Rohat Toll Plaza at 8:58 pm and at 9:18 pm vehicle crossed Pali Toll Plaza. This vehicle returned in the morning i.e. on 18.09.2015 at 5:11 am it crossed Pali Toll Plaza and further crossed Rohat Toll Plaza and went towards Jodhpur at 5:29 am.

13. It is also contended that there are call details which goes to show that all the accused were in touch with each other and were present at Abu Road Station.

14. It is contended that Dinesh Jayani was having an affair with Dipti and he tried to persuade Hari Om not to marry her and on many occasions he had threatened Hari Om. To settle scores with Hari Om, Dinesh Jayani with the help of other co-accused tried to falsely implicate Hari Om.

15. I have considered the contentions and have carefully gone through the charge-sheet.

16. Police in this case has done a thorough investigation and has collected the relevant evidence to connect the petitioners with the crime.

17. Learned Sessions Judge, Pali has detailed out the criminal conspiracy arrived at between Dinesh Jayani and other co-accused



and has not committed any perversity or impropriety in proceeding and framing charges against the petitioners.

18. Movement of Dinesh Jayani from Jodhpur to Abu Road, stealing sim en-route their. Presence at Abu Road, travelling of Bhirma Ram in same compartment as that of Hari Om, his communicating with Dinesh Jayani. Dinesh Jayani thereafter calling the Police from the stolen sim and informing Police about Hari Om carrying contraband. All points out towards involvement of petitioners. Comming to falsely implicate Hari Om is indeed a grave offence and prima facie there is enough material to proceed against the petitioners.

19. No case is made for entertaining the present revision petitions.

20. The present revision petitions are accordingly dismissed. Stay petitions stand disposed.

21. A copy of this order be placed on record of each connected file.

(PANKAJ BHANDARI),J

Amit/20-22

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