



[2025:RJ-JD:23517]

HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

S.B. Criminal Writ Petition No. 580/2025

Ajaypal Singh S/o Shri Hanwant Singh, Aged About 48 Years, R/o Village Bedana, Police Station, Ahore, District Jalore.

----Petitioner

Versus

1. State Of Rajasthan, Through Its Secretary, Department Of Home, Secretariat, Jaipur.
2. The Collector And District Magistrate, Jalore.
3. The Superintendent Of Police, Jalore.

----Respondents

Connected With

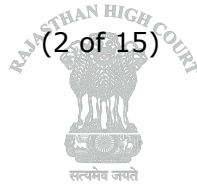
S.B. Criminal Misc(Pet.) No. 8667/2022

1. Raghubir Singh S/o Prithvi Singh, Aged About 65 Years, R/o Bisalpur Tehsil Bali Dist. Pali
2. Dhan Singh S/o Khiv Singh, Aged About 60 Years, R/o Jhakoda Tehsil Sumerpur Dist. Pali
3. Prema Ram Dewasi S/o Neti Ram, Aged About 60 Years, R/o Netra Tehsil Sumerpur Dist. Pali
4. Vishvanath Ojha S/o Mohan Lal Ojha, Aged About 49 Years, R/o Dujana Tehsil Sumerpur Dist. Pali
5. Ratan Choudhary S/o Chena Ram, Aged About 43 Years, R/o Leel Ki Farm Sumerpur Pali
6. Narpat Maderna S/o Bhanwar Singh, Aged About 54 Years, R/o Leel Ki Farm Sumerpur Pali
7. Laxman Singh S/o Devi Singh, Aged About 48 Years, R/o Bangri Tehsil Sumerpur Dist. Pali
8. Indra Singh S/o Bhopal Singh, Aged About 33 Years, Gudiya Tehsil Sumerpur Dist. Pali
9. Bajrang Singh S/o Sher Singh, Aged About 70 Years, Takhatgarh Tehsil Sumerpur Dist. Pali
10. Shaitan Singh S/o Sardar Singh, Aged About 64 Years, Gogra Tehsil Sumerpur Dist. Pali
11. Tej Singh Balot S/o Chhatar Singh, Aged About 62 Years, R/o Rasiyawas Ahore Dist. Jalore
12. Ishwar Singh S/o Ranjeet Singh, Aged About 65 Years, R/o Thumba Ahore Dist. Jalore
13. Ajaypal Singh S/o Hanwant Singh, Aged About 47 Years, R/o Baidana Ahore Jalore

----Petitioners

Versus

1. State Of Rajasthan, Through Pp
2. Sarjil Malik, S.i. S.h.o. Ps Sanderao Dist. Pali



-----Respondents

S.B. Criminal Misc(Pet.) No. 8670/2022

1. Danaram Choudhary S/o Savaram, Aged About 62 Years, R/o Koselao Tehsil Sumerpur Dist. Pali
2. Balaram Choudhary S/o Lumbaram, Aged About 55 Years, R/o Koselao Tehsil Sumerpur Dist. Pali
3. Thanaram Choudhary S/o Sheraram, Aged About 60 Years, R/o Koselao Tehsil Sumerpur Dist. Pali
4. Tulchharam Choudhary S/o Motiram, Aged About 58 Years, R/o Koselao Tehsil Sumerpur Dist. Pali
5. Narpat Singh S/o Bhanwar Singh, Aged About 54 Years, R/o Koselao Tehsil Sumerpur Dist. Pali
6. Chandra Ram Dewasi S/o Motiram, Aged About 35 Years, R/o Rajpura Tehsil Sumerpur Dist. Pali
7. Devaram Dewasi S/o Manaram, Aged About 30 Years, R/o Rajpura Tehsil Sumerpur Dist. Pali
8. Babra Ram Dewasi S/o Saruparam, Aged About 63 Years, R/o Rajpura Tehsil Sumerpur Dist. Pali
9. Dudaram Dewasi S/o Bagaram, Aged About 45 Years, R/o Rajpura Tehsil Sumerpur Dist. Pali
10. Daulat Singh S/o Amar Singh, Aged About 62 Years, R/o Dujana Tehsil Sumerpur Dist. Pali
11. Mohan Lal Kumhar S/o Genaram, Aged About 48 Years, R/o Dujana Tehsil Sumerpur Dist. Pali
12. Bhuraram Kumhar S/o Achaji, Aged About 50 Years, R/o Dujana Tehsil Sumerpur Dist. Pali
13. Mool Shankar S/o Lasiram, Aged About 62 Years, R/o Dujana Tehsil Sumerpur Dist. Pali

-----Petitioners

Versus

1. State Of Rajasthan, Through Pp
2. Sarjil Malik, S.i. Sho Ps Sanderao Dist. Pali

-----Respondents

S.B. Criminal Misc(Pet.) No. 8844/2022

1. Kheemaram S/o Dhanaji, Aged About 70 Years, R/o Dujana, Teh. Sumerpur, Dist. Pali.
2. Dayaram S/o Amraram Meena, Aged About 55 Years, Dujana, Teh. Sumerpur, Dist. Pali.
3. Anil Puri S/o Malampuri Goswami, Aged About 36 Years, Pawa, Teh. Sumerpur, Dist. Pali.
4. Bhanwar Lal S/o Mangi Lal Ghanchi, Aged About 53 Years, Pawa, Teh. Sumerpur, Dist. Pali.
5. Hukam Singh S/o Madan Singh Rajput, Aged About 42



Years, Gudiya Indrapura, Teh. Sumerpur Dist. Pali.

6. Jabar Singh S/o Narayan Singh Rajput, Aged About 61 Years, Padradi, Dist. Jalore.
7. Pokar Lal S/o Punaji Mali, Aged About 56 Years, Koselao, Teh. Sumerpur, Dist. Pali.
8. Bholaram S/o Harji, Aged About 51 Years, Koselao, Teh. Sumerpur, Dist. Pali.
9. Hanuman S/o Punaji, Aged About 78 Years, Koselao, Teh. Sumerpur, Dist. Pali.
10. Jagat Singh S/o Ugam Singh Rajput, Aged About 68 Years, Sanderao, Teh. Sumerpur, Dist. Pali.
11. Praveen Singh S/o Hanwant Singh Rajput, Aged About 55 Years, Sanderao, Teh. Sumerpur, Dist. Pali.
12. Ramesh Singh S/o Prabhuji Rajpurohit, Aged About 52 Years, Sanderao, Teh. Sumerpur, Dist. Pali.
13. Narayan Lal S/o Vardaji Ghanchi, Aged About 40 Years, Sanderao, Teh. Sumerpur, Dist. Pali.
14. Fateh Khan Moyala S/o Sultan Khanji Moyala, Aged About 58 Years, Takhatgarh, Dist. Pali.
15. Inder Singh S/o Kalyan Singh, Aged About 30 Years, Jakhora, Teh. Sumerpur, Dist. Pali.
16. Karan Singh S/o Anoop Singh, Aged About 50 Years, Ramnagar, Teh. Sumerpur, Dist. Pali.
17. Jayendra Singh S/o Brig. Hari Singh, Aged About 65 Years, Galthani, Teh. Sumerpur, Dist. Pali.
18. Shivraj Singh S/o Pratap Singh, Aged About 42 Years, Bitiya, Teh. Sumerpur, Dist. Pali.
19. Shyam Singh Deora S/o Chandan Singh Rajput, Aged About 78 Years, Galthani, Teh. Sumerpur, Dist. Pali.

-----Petitioners

Versus

1. State Of Rajasthan, Through Pp
2. Sarjil Malik, S.i., Sho, P.s. Sanderao, Dist. Pali.

-----Respondents

For Petitioner(s) : Mr. Nishant Bora
Mr. Yuvraj Singh

For Respondent(s) : Mr. N.S.Chandawat, Dy.G.A.

**HON'BLE MR. JUSTICE FARJAND ALI****Order****REPORTABLE****ORDER RESERVED ON :: 26/03/2025****ORDER PRONOUNCED ON :: 21/05/2025****BY THE COURT:-**

1. The Writ Petition No.580/2025 along with four batch of Misc. Petitions, are intrinsically relatable to the lodging of F.I.R. No.127/2022, Police Station Sanderav, District Pali, therefore, arguments were heard together with the consent of the parties and are being decided by this common order.

2. The impugned F.I.R. was lodged against around 53 accused persons, including the petitioners, at the instance of the SHO of Police Station Sanderav, alleging, inter alia, that a meeting for the distribution of water from Jawai Bandh was to be conducted on 02-01-2022 at the headquarter by the Divisional Commissioner, Jodhpur. Traditionally, this meeting has always taken place at the Dam Inspection Bhawan, Sumerpur, owing to the rationale that it pertains to the distribution of water from Jawai Bandh, therefore, the test and related assessments are to be conducted in the Dam Inspection Bhawan where it is convenient for the farmers to attend the same. There appears a serious disappointment and wrath among the farmers of Jawai Bandh area and Sumerpur and perhaps they did their level best to convince the senior officers to hold the meeting as per the tradition, in view of the past practice and in the interest of the farmers, so that their voice could be



heard. However, the meeting was suddenly scheduled at a different venue, possibly depriving the farmers of a fair opportunity to present their grievances. As a result, several farmers left their agricultural fields and offices to make a democratic protest near the highway area at Sumerpur.

2.1. On 09-10-2022, a large number of farmers began a peaceful protest. Subsequently, a meeting was held at Pali on 10-10-2022, which was boycotted by the representatives of the farmers. The authorities and administrative officers then decided to proceed with the distribution of water without obtaining any feedback from the farmers, who would be directly impacted by such decisions and, therefore, in order to protest the decision of the authorities again, the meeting convened on 14-10-2022 was also boycotted by the farmers. Discontented and disappointed, the farmers assembled at NH-62 to raise their voices against the unreasonable and inappropriate actions of the authorities.

2.2. Approximately 700–800 farmers gathered near NH-62 and engaged in a peaceful protest against the administrative decisions. Even from the FIR, it is evident that no violent incident took place. There is no mention of damage, disorder, or chaos at the protest site and there is no pandemonium or ruckus at the site. Neither any individual was injured, and nor public property was damaged. It appears that, on the instructions of administrative officers, the police team attempted to disperse/scatter the protesters, however,



no abnormal situation, commotion, or loss of property was reported in the police record.

2.3. There is only a vague assertion of slogans being raised and public inconvenience allegedly caused by the accused persons named in the FIR. There are allegations of road blockage and instances of jostling but as a matter of fact, no specific incident is mentioned in the factual report dated 21-03-2025 submitted by the SHO post conducting investigation.

2.4. The legal question arises: whether the act of the accused, in protesting a perceived unreasonable action against the interest of the public and staging a democratic protest, would constitute an offence under Sections 143, 117, 283, 353 of the Indian Penal Code, 1860 (hereinafter to be referred as "IPC") and whether silent democratic protest or accumulation of several people on the Highway would attract Section 8B of the National Highways Act, 1956 (hereinafter to be referred as "NH Act") is a moot question before this Court.

3. This Court has heard the learned counsel for the parties and perused the FIR, the factual report, and the other materials placed on record.

4. To start with, it is crucial to discuss the provisions of IPC and NH Act for which they have been charged for. For ready reference Sections 143, 117, 283, 353 of IPC and Section 8B of NH Act are reproduced herein below:-



"117. Abetting commission of offence by the public or by more than ten persons.—Whoever abets the commission of an offence by the public generally or by any number or class of persons exceeding ten, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Illustration

A affixes in a public place a placard instigating a sect consisting of more than ten members to meet at a certain time and place, for the purpose of attacking the members of an adverse sect, while engaged in a procession. A has committed the offence defined in this section.

141. Unlawful assembly.—An assembly of five or more persons is designated an "unlawful assembly", if the common object of the persons composing that assembly is—

First.—To overawe by criminal force, or show of criminal force, [the Central or any State Government or Parliament or the Legislature of any State], or any public servant in the exercise of the lawful power of such public servant; or

Second.—To resist the execution of any law, or of any legal process; or

Third.—To commit any mischief or criminal trespass, or other offence; or

Fourth.—By means of criminal force, or show of criminal force, to any person, to take or obtain possession of any property, or to deprive any person of the enjoyment of a right of way, or of the use of water or other incorporeal right of which he is in possession or enjoyment, or to enforce any right or supposed right; or

Fifth.—By means of criminal force, or show of criminal force, to compel any person to do what he is not legally bound to do, or to omit to do what he is legally entitled to do.

Explanation.—An assembly which was not unlawful when it assembled, may subsequently become an unlawful assembly.

143. Punishment.—Whoever is a member of an unlawful assembly, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

283. Danger or obstruction in public way or line of navigation.—Whoever, by doing any act, or by omitting to take order with any property in his possession or under his charge, causes danger, obstruction or injury to any person in any public way or public line of navigation, shall be punished, with fine which may extend to two hundred rupees.

353. Assault or criminal force to deter public servant from discharge of his duty.—Whoever assaults or uses criminal force to any person being a public servant in the execution of his duty as such public servant, or with intent to prevent or deter that



person from discharging his duty as such public servant, or in consequence of anything done or attempted to be done by such person to the lawful discharge of his duty as such public servant, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

8B. Punishment for mischief by injury to national highway.

—Whoever commits mischief by doing any act which renders or which he knows to be likely to render any national highway referred to in sub-section (1) of section 8A impassable or less safe for traveling or conveying property, shall be punished with imprisonment of either description for a term which may extend to five years, or with a fine, or with both.”

5. At first, Section 117 of the IPC regarding abetment of the commission of an offence by conduct does not seem to apply. The word “abets” itself means to encourage someone to commit a wrongdoing or a criminal act, and abetment refers to actions that take place prior to the commission of the offence. In this case, it is not mentioned anywhere that people were called by any of the accused for the purpose of committing any wrongdoing rather they assembled to voice their rights, as the decision made by the authorities would directly impact their livelihood. To attract the provision of abetment, there must be a plain assertion that, prior to the commission of the offence, an endeavour was made by the instigator to incite others to commit the wrongful act. The very nature of abetment vests in an act preceding the offence, such that the outcome follows the instigation. Here in this case, the farmers were already perturbed and irked by the situation and felt that the authorities had swindled them, therefore, they gathered on the highway on their own accord, and nobody called them there and the fact above clears that the offence of abetment never took place and the people of the vicinity assembled on the



highway to raise their voice against the actions taken by the authorities.

6. Now, moving on to the offence of unlawful assembly, there are allegations that all of them formed an unlawful assembly. To form that, there must be an assembly of five or more persons having a common object and also used criminal force, resisted the execution of any law or committed any mischief or criminal trespass. However, not all assemblies meet this criterion. This Court is of the view that not every assembly can be deemed an unlawful assembly and in a democratic country like India, the right to free speech and expression is a fundamental right enshrined in the Constitution, allowing individuals to express their opinions on any matter through any medium. Article 19(1)(b) of the Constitution guarantees the right to assemble peacefully without arms, provided such gatherings do not involve violence, threats, or actions that disrupt public order. For instance, a legislative assembly is also a form of gathering, but it is not unlawful merely because people have come together for a common cause. In the present case, although the accused persons may have assembled at the spot and protested for their rights but this fact alone does not automatically establish the fact of having a common unlawful object. If a person takes to the streets for the sake of their life or happiness, which is integrally linked to their livelihood, it cannot be construed as a piece of evidence of a common object. Each individual faces their own hardship, for instance, if the water supply is cut off, crops of the farmer may fail, and they may have



nothing to eat. People who are wholly and mainly dependent on agricultural produce may naturally become distressed at the sudden realization that they would not receive water. However, the mere expression of anguish in such circumstances cannot be taken to mean that they share a common objective or have formed an unlawful assembly. Moreover, there is no evidence of violence or threats that could have disturbed public peace and order. As it is manifesting from the provision itself that forming assembly alone is not an offence rather it must have a common object enumerated in first to fifth clause and the explanation mentioned as a rider to the provision.

7. Advancing to the question of invocation of Section 283 of IPC, the offence of causing danger or obstruction in a public way or line of navigation does not seem to apply, the accused in FIR were protesting for their rights and were also conducting a silent protest, which did not cause any danger to the public. Regarding obstruction, it is obvious that if people gather somewhere to assert their rights, the way will be blocked automatically. However, this does not mean they caused harm to anyone. Moreover, nothing in the record shows that they used any kind of assault or force against the public servants on duty. The police only came to disperse the crowd, which negates the offence under Section 353 of the IPC.

8. Coming to the question of attraction of Section 8B of the NH Act, which pertains to mischief or damage to a national highway



and at the threshold, I am of the view that the same is also not attracted in the present case, as there is no allegation or indication of any mishap or damage caused to the highway. In a silent protest, it cannot be presumed that any person has caused harm to public property or to any individual. It is well understood that water is a basic necessity, and for farmers, it is a matter of survival and livelihood. Their wrath and resentment, therefore, is natural. If they come forward to request that the authorities should hold discussions in a setting where they feel comfortable particularly when the outcome directly affects their lives and if they express their dissent against a decision taken by the authorities in a democratic manner, there is nothing unlawful in that. Furthermore, if a group stands in a public place, some degree of obstruction is inevitable, but that alone does not constitute an offence, especially in the absence of violence or damage. Therefore, the ingredients of Section 8B are not fulfilled.

9. This Court is of the view that this is a democratic country that exists for its people. Preventing citizens from holding a peaceful protest through force or coercion cannot be justified. Every individual has the constitutional right to raise his voice against the actions of a public officer, especially if those actions directly impact their rights or livelihood. If simply opposing an officer's decision results in the registration of a criminal case, it would reflect a mindset reminiscent of British colonial rule but surely not the spirit of a free, democratic nation governed by the rule of law.



10. This Court feels that the courts are meant to impart justice and for that purpose alone it is established. From the very day of its establishment, it acquires and possesses all the powers needed to impart justice and as such for the purpose of dispensation of justice, it can exercise the inherent powers vested in it. The express provision under Section 482 CrPC only recognizes and preserves the powers which are inherent and imbibed in the courts for the purpose of achieving the ends of justice as well as for the purpose of preventing or thwarting the abuse of process of law. Whether the High Court in its inherent power which is expressly recognized under Section 482 CrPC can quash a criminal complaint or an FIR has very elaborately and wisely been enunciated by Hon'ble the Supreme Court in the case of **State of Haryana and Ors. Vs. Ch. Bhajan Lal and Ors.**, reported in **AIR 1992 SC 604**, Hon'ble the Supreme Court has expounded elaborately the canvass of the issue relating to quashing of the FIR. For the ready reference, the relevant part of the judgment is reproduced herein below: -

"105...In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extra-ordinary power under Article 226 or the inherent powers Under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any Court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelized and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.



- i. Where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima-facie constitute any offence or make out a case against the accused.
- ii. Where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers Under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.
- iii. Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.
- iv. Where, the allegations in the F.I.R. do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated Under Section 155(2) of the Code.
- v. Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.
- vi. Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.
- vii. Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

The lodging of an FIR against multiple individuals, as discussed above, would not serve the interest of justice, particularly in light of the parameters laid down in the case referred supra. This Court is of the view that the litmus test set forth in the aforementioned judgment is applicable in the present case.



11. In view of the discussion made herein above, this Court observes that the alleged protest stemmed from genuine resentment and was an expression of democratic dissent. In a democracy, of the people, by the people, and for the people, peaceful protest is a constitutional right. Simply because an individual took to the streets to protest in order to safeguard their rights when their interests were affected does not imply that they have committed offences under Sections 117, 143, 283, and 353 of the IPC, or Section 8B of the NH Act.

12. The accused persons who have appeared before this Court are well-represented, well-informed, and vigilant. However, it must be emphasized that justice is not meant solely for those who are able to access it due to their resources or awareness. It is equally available to those who, due to financial, social, or informational constraints, could not appear before this Court. This order shall be applicable to all such individuals as well. Since the entire FIR stands quashed, no individual shall be prosecuted in connection with this case.

13. The SHO concerned is directed to submit the negative final report before the trial Court at the earliest.

14. Accordingly, instant Writ Petition and Misc. Petitions are allowed and it is ordered that the all consequent proceedings pertaining to FIR No.127/2022 registered at Police Station Sanderav, District Pali are hereby quashed and set aside.

15. The stay petitions stand disposed of.

**S.B. Criminal Writ Petition No. 580/2025**

16. It has been brought to the notice of the Court that the petitioner Ajaypal Singh, is a gun license holder. The order passed against him appears to have been issued without any application of mind. Such an order cannot be sustained and is, therefore, set aside.

17. Furthermore, since the FIR has been quashed and no case is made out against the petitioner-Ajaypal Singh, there remains no legal impediment. If no other case is instituted against him, he may be permitted to continue to retain and renew his gun license in accordance with law. The suspension is revoked hereby because it was made solely on the basis of lodging of the FIR referred supra which has been quashed now.

(FARJAND ALI),J

112-Mamta/-