



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

S.B. Criminal Misc(Pet.) No. 313/2025

State Of Rajasthan, Through Pp

-----Petitioner

Versus

Chimna Ram

-----Respondent



For Petitioner(s) : Mr. Rajendra Prasad, Advocate
General assisted by Mr. Tanay Goyal
For Respondent(s) : Mr. Ramawatar Singh, Mr. Jassa Ram
and Mr. Jai Kishan through VC

**HON'BLE MR. JUSTICE INDERJEET SINGH
HON'BLE MR. JUSTICE BHUWAN GOYAL**

**ORDER RESERVED ON : 18/08/2025
ORDER PRONOUNCED ON : 21/08/2025**

PER BHUWAN GOYAL J. :

1. The instant criminal misc. petition under Section 528 read with Section 360 of the Bhartiya Nagarik Suraksha Sanhita, 2023 has been filed by the State seeking permission to withdraw the prosecution in Criminal Case No. 1473/2019 titled as "State of Rajasthan vs. Harlal" pending in the court of Additional Chief Judicial Magistrate, Sardarshahar, District Churu.
2. The facts in short are that on the basis of a complaint filed by the respondent/complainant, F.I.R. No. 17/2019 was registered at Police Station Kotwali, District Churu for the offences under Sections 420, 467, 468, 471, 193 & 120-B of I.P.C., wherein the allegation was that accused - Harlal Singh submitted his nomination for election on the post of Member, Ward No. 16, Zila



Parishad, Churu and along with nomination papers, he submitted mark-sheet and certificate of Class Xth passed and used them as genuine knowing well that same were forged. After conclusion of investigation, the police submitted charge-sheet against the accused - Harlal. During pendency of criminal case, the State Government constituted a committee, which took a decision to withdraw criminal case pending against the accused, who is present MLA of Constituent Assembly of Churu. Therefore, the State has moved this application seeking permission under Section 321 of Cr.P.C. for withdrawal of the prosecution.

3. Heard learned counsel for the parties.

4. Mr. Rajendra Prasad, learned Advocate General has submitted that though, charge-sheet in the instant case was filed against accused - Harlal Singh for the offences under Sections 420, 467, 471, 120-B & 193 of I.P.C. but from the evidence produced on record, no sufficient material is available on record against him. He has argued that charges were also wrongly framed against him because there is no evidence on record to establish that accused fabricated documents in question in any manner.

4.1 Learned Advocate General has further submitted that in order to frame charge of Section 120-B of I.P.C., existence of two or more accused persons is necessary. But in the case in hand, charge-sheet has been filed only against accused - Harlal Singh, therefore, charge framed under Section 120-B of I.P.C. is defective.



4.2 Learned Advocate General has further submitted Section 193 of I.P.C. deals with offences relating to false evidence and separate procedure has been prescribed under Section 340 of Cr.P.C. read with Section 195 of I.P.C. for prosecuting such offences and said procedure has not been followed in the case in hand because F.I.R. was got registered by a stranger person after about four years of commission of alleged offences.

4.3 Learned Advocate General has also argued that as per provisions of Section 146 of the Representation of the People Act, 1951, Election Officer/Public Servant is empowered to file the complaint but in the present case, complaint was filed by a private person which was not maintainable.

4.4 Learned Advocate General has also submitted that accused Harlal Singh had contested election of Member, Zila Parishad in the year 2015, the term of office of which expired in the year 2020. He has also contended that qualification of Class Xth passed has also now been removed. Thus, no ends of public justice would be met with proceeding with the prosecution.

4.5 Learned Advocate General has relied upon the decision of Hon'ble Supreme Court in the case of **Narendra Kumar Srivastava vs. State of Bihar** reported in **(2019) 3 SCC 318** to contend that cognizance of offence punishable under Section 193 I.P.C. on the basis of a private complaint is impermissible.

5. Learned counsel appearing for the respondent-complainant through VC has submitted that accused - Harlal Singh had earlier filed a misc. petition under Section 482 of Cr.P.C. for quashment of the F.I.R., which was withdrawn by him. He has also submitted



that the revision petition filed by accused challenging cognizance of offences taken against him was dismissed and the revision petition filed by him challenging charges framed against him is pending adjudication. He has also submitted that no reasoning/opinion was assigned by the State Level Committee for making recommendations for withdrawal of prosecution. Therefore, he has prayed that permission to withdraw the prosecution may be rejected.

6. We have given our thoughtful consideration to the arguments advanced at the Bar and have gone through material available on record.

7. It would be fruitful to refer to Section 321 of Cr.P.C., which is reproduced as under :-

"321. Withdrawal from prosecution. *The Public Prosecutor or Assistant Public Prosecutor in charge of a case may, with the consent of the Court, at any time before the judgment is pronounced, withdraw from the prosecution of any person either generally or in respect of any one or more of the offences for which he is tried; and, upon such withdrawal,-*

(a) if it is made before a charge has been framed, the accused shall be discharged in respect of such offence or offences;

(b) if it is made after a charge has been framed, or when under this Code no charge is required, he shall be acquitted in respect of such offence or offences:

Provided that where such offence-

(i) was against any law relating to a matter to which the executive power of the Union extends, or

(ii) was investigated by the Delhi Special Police Establishment under the Delhi Special Police Establishment Act, 1946 (25 of 1946), or



(iii) involved the misappropriation or destruction of, or damage to, any property belonging to the Central Government, or

(iv) was committed by a person in the service of the Central Government while acting or purporting to act in the discharge of his official duty, and the Prosecutor in charge of the case has not been appointed by the Central Government, he shall not, unless he has been permitted by the Central Government to do so, move the Court for its consent to withdraw from the prosecution and the Court shall, before according consent, direct the Prosecutor to produce before it the permission granted by the Central Government to withdraw from the prosecution."

8. The question regarding exercise of power by the Public Prosecutor under Section 321 of Cr.P.C. and the exercise of jurisdiction by the Court, came to be adjudicated by the Hon'ble Apex Court in the case of **The State of Kerala vs. K. Ajith & ors.** reported in **AIR 2021 SC 3954**, wherein principles on the withdrawal of a prosecution under Section 321 of Cr.P.C. have been formulated. The relevant Para 23 of the judgment reads as under :-

"23 The principles which emerge from the decisions of this Court on the withdrawal of a prosecution under [Section 321](#) of the CrPC can now be formulated:

(i) Section 321 entrusts the decision to withdraw from a prosecution to the public prosecutor but the consent of the court is required for a withdrawal of the prosecution;

(ii) The public prosecutor may withdraw from a prosecution not merely on the ground of paucity of evidence but also to further the broad ends of public justice;



(iii) *The public prosecutor must formulate an independent opinion before seeking the consent of the court to withdraw from the prosecution;*

(iv) *While the mere fact that the initiative has come from the government will not vitiate an application for withdrawal, the court must make an effort to elicit the reasons for withdrawal so as to ensure that the public prosecutor was satisfied that the withdrawal of the prosecution is necessary for good and relevant reasons;*

(v) *In deciding whether to grant its consent to a withdrawal, the court exercises a judicial function but it has been described to be supervisory in nature. Before deciding whether to grant its consent the court must be satisfied that:*

(a) *The function of the public prosecutor has not been improperly exercised or that it is not an attempt to interfere with the normal course of justice for illegitimate reasons or purposes;*

(b) *The application has been made in good faith, in the interest of public policy and justice, and not to thwart or stifle the process of law;*

(c) *The application does not suffer from such improprieties or illegalities as would cause manifest injustice if consent were to be given;*

(d) *The grant of consent sub-serves the administration of justice; and*

(e) *The permission has not been sought with an ulterior purpose unconnected with the vindication of the law which the public prosecutor is duty bound to maintain;*

(vi) *While determining whether the withdrawal of the prosecution subserves the administration of justice, the court would be justified in scrutinizing the nature and gravity of the offence and its impact upon public life especially where matters involving public funds and the discharge of a public trust are implicated; and*

(vii) *In a situation where both the trial judge and the revisional court have concurred in granting or*





refusing consent, this Court while exercising its jurisdiction under [Article 136](#) of the Constitution would exercise caution before disturbing concurrent findings. The Court may in exercise of the well-settled principles attached to the exercise of this jurisdiction, interfere in a case where there has been a failure of the trial judge or of the High Court to apply the correct principles in deciding whether to grant or withhold consent."

9. The Hon'ble Apex Court in the case of ***Abdul Kareem and others vs. State of Karnataka*** reported in **2008 SCC 710** held that an application under Section 321 of Cr.P.C. could not be allowed only on the ground that the State Government has taken a decision for withdrawing the prosecution and such an order could not be passed after examining facts and circumstances of the case. Further, it has been held that what the court has to see as to whether the application has been made in good faith and in the interest of public policy and justice and not to thwart or stifle the process of law. The Court after considering the facts and circumstances of each case has to see whether the application suffers from improprieties or illegalities as would cause a manifest injustice if consent was given.

10. In the case of ***Rajendra Kumar vs. State through Special Police (Establishment)*** reported in **1980 3 SCC 435**, Hon'ble the Apex Court has held that it shall be duty of the Public Prosecutor to inform the grounds for withdrawal to the Court and it shall be duty of the Court to authorize a search of the reason, which prompt the Public Prosecutor to withdraw from the prosecution. The Court has a responsibility and a stake in the



administration of criminal justice and so as to Public Prosecutor, its 'Ministers of Justice'. Both have a duty to protect the administration of Criminal Justice against possible abuse or misuse by the Executive by resort to the provisions of Section 321 of Cr.P.C. The independence of the judiciary requires that once the case has travelled to the Court, the Court and its officers alone must have control over the case and decided what is to be done in each case.

11. In the case of ***Shailendra Kumar Srivastva vs. The State of Uttar Pradesh & Anr. (2024 INSC 529)***, the Hon'ble Supreme Court has observed as under :-

"12. Considering the material on record and the political influence of accused Chhote Singh and the Trial Court's casual approach towards the accusations against the then sitting Member of Legislative Assembly in allowing withdrawal of his prosecution, this court is of the opinion that merely because an accused person is elected to the Legislative Assembly cannot be a testament to their image among the general public. Matters of a gruesome crime akin to the double murder in the present case do not warrant withdrawal of prosecution merely on the ground of good public image of an accused named in the charge sheet after thorough investigation. Contrary to the Trial Court's view, such withdrawal cannot be said to be allowed in public interest. This reasoning cannot be accepted especially in cases of involvement of influential people."

12. If we examine the record of the case in light of provisions of Section 321 of Cr.P.C. coupled with the principles propounded by the Hon'ble Apex Court in the case of K. Ajith & ors. (supra) and the position of law annunciated in the cases of Abdul Kareem and others (supra) as well as Rajendra Kumar (supra), it is well settled



that the permission for withdrawal from prosecution cannot be granted mechanically. Withdrawal must be for proper administration of justice and only in the public interest. In the present case, neither the State Government has submitted the report regarding satisfaction of the learned Public Prosecutor nor the grounds/reasons for withdrawing the First Information Report No. 17/2019 registered at Police Station Kotwali, District Churu against the accused - Harlal Singh have been assigned in the minutes of the meeting held on 26.11.2024. The relevant portion of minutes of the meeting dated 26.11.2024 reads as under :-

"1. प्रथम सूचना रिपोर्ट संख्या 17/2019 पुलिस थाना कोतवाली जिला चुरू

प्रकरण के संक्षिप्त तथ्य इस प्रकार से है कि परिवादी चिमनाराम पुत्र रूपाराम जाट निवासी ढाढर जिला चुरू ने एक इस्तगासा श्रीमान् सीजेएम चुरू के यहां इस आशय का दर्ज करवाया है कि अभियुक्त हरलाल सिंह पुत्र मोहनलाल जाट ने जनवरी 2015 में जिला परिषद चुरू के निर्वाचन क्षेत्र संख्या 16 से जिला परिषद चुरू के सदस्य के निर्वाचन हेतु रिटर्निंग ऑफिसर जिला परिषद सदस्य निर्वाचन (जिला कलेक्टर एवं जिला मजिस्ट्रेट) चुरू के समक्ष नोमिनेशन फार्म पेश किया। जिसमें उसने मद संख्या 09 में अपनी शैक्षणिक योग्यता 10 वीं पास करना लिखा। जिसके लिए उसने एक शपथ पत्र पेश किया साथ में प्रमाण स्वरूप अपने नाम की अंकतालिका हाई स्कूल परीक्षा 2010 अनुक्रमांक 1494335 उत्तराखण्ड विद्यालय शिक्षा परिषद विद्यालय एच.ए.एस.एस स्कूल-ऋषिकेश उत्तराखण्ड विद्यालय शिक्षा परिषद हाई स्कूल परीक्षा उत्तीर्ण करने का प्रमाण-पत्र अपने स्वयं के हस्ताक्षरों से प्रमाणित कर पेश किया। परिवादी ने सूचना के अधिकार के तहत सूचना मांगी तो लोक सूचना अधिकारी उत्तराखंड विद्यालय परिषद रामनगर नैनीताल ने सूचित किया की हाई स्कूल परीक्षा 2010 में अनुक्रमांक 1494336 किसी भी विद्यार्थी को आवंटित नहीं किया गया और हॉल ऐन्जल सिनियर सैकेन्डरी स्कूल ऋषिकेश के नाम से कोई



विद्यालय पंजीकृत नहीं है, इस प्रकार अभियुक्त ने कूटरचित अंकतालिका तैयार की है तथा उसे छल के प्रयोजन के लिए उपयोग में लिया है। पुलिस ने अनुसंधान उपरान्त धारा 420, 467, 468, 471, 193, 120बी भा.दं.सं. में आरोप-पत्र न्यायालय में प्रस्तुत किया गया।

राज्य स्तरीय समिति ने प्रकरण के तथ्यों पर मनन किया एवं उक्त प्रकरण में अभियुक्त श्री हरताल सिंह वर्तमान में विधायक चुरू है। पूर्व/वर्तमान सांसद एवं विधानमंडल के सदस्यों के विरुद्ध प्रकरणों को माननीय उच्च न्यायालय की अनुमति से ही वापस लिया जा सकता है। समिति यह अनुशंसा करती है कि माननीय उच्च न्यायालय में प्रार्थना-पत्र पेश किया जाने का निर्णय उच्च स्तर से लिया जावे।"

13. It is noteworthy that as per allegations, accused fabricated mark-sheet of Class X, on the basis of which, he submitted nomination papers for contesting the election of Member, Zila Parishad, in which he was declared elected and held the public office and utilized public money. Such matters of a gruesome crime involving misuse of public office and public money do not warrant withdrawal of prosecution merely on the ground of good public image of an accused or that he is elected Member of Legislative Assembly. It is pertinent to note at this stage that in the case in hand, after filing of the charge-sheet against the accused - Harlal Singh, cognizance of offences has been taken against him and charges have also been framed. The revision petition filed by accused challenging cognizance order being S.B. Criminal Revision Petition No.36/2020 (Harlal Singh vs. State of Rajasthan & anr.) has been dismissed vide Order dated 11.09.2023 passed by a coordinate Bench of this Court at Principal Seat, Jodhpur. So far as submission of learned Advocate General



appearing for the State Government that charges framed against accused are defective is concerned, this submission can be raised in the pending revision petition challenging the order framing charge.

14. It is noteworthy that during the course of arguments, learned Advocate General has not been able to satisfy the Court as to how broad ends of public justice, public order and peace would met in withdrawing the prosecution nor has he satisfied that present application has been made in good faith and in the interest of public policy and justice and not to thwart of stifle the process of law.

15. In view of the aforesaid discussion, we are of the view that no case to exercise the power under Section 321 of Cr.P.C. is made out in favour of the applicant.

16. Consequently, instant criminal misc. petition being devoid of any merit is hereby dismissed.

(BHUWAN GOYAL),J

(INDERJEET SINGH),J

Inder/