

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

S.B. Criminal Miscellaneous (Petition) No. 1550/2017

Dr Amar Singh

----Petitioner

Versus

State Of Rajasthan And Anr

----Respondent

Connected With

S.B. Criminal Miscellaneous (Petition) No. 4030/2016

Amar Singh

----Petitioner

Versus

State Of Rajasthan And Anr

----Respondent

For Petitioner(s) : Mr. Rajneesh Gupta

For Respondent(s) : Mr. Prakash Thakuriya, PP for State
Mr. Amit Punia, for respondent No.2

HON'BLE MR. JUSTICE KANWALJIT SINGH AHLUWALIA

Order

31/07/2018

On 20.04.2018 S.B. Criminal Misc. Petition No.1550/2017 and S.B. Criminal Misc. Petition No.4030/2016 between same parties were taken together and this court on the said date had passed the following order:-

"Dr. Amar Singh allegedly had performed marriage with Smt. Kamla Devi. It is further alleged that from the loins of Amar Singh and from the womb of Smt. Kamla Devi, son, namely Dr. Sikandar Singh was born. Smt. Kamla Devi filed a complaint for offence under Section 494 I.P.C. alleging therein that during subsistence of marriage, Amar singh has performed marriage with one Smt. Sheela.

On the prayer made by the learned counsel appearing for the parties, the parties were called in the Court.

Today, Dr. Amar Singh, Smt. Kamla Devi and Dr. Sikandar Singh are present in person before this Court.

The learned counsel appearing for the parties have submitted that the matter has been amicably resolved and it has been decided that Amar Singh shall transfer his share in the ancestral property on the name of Smt. Kamla Devi and Dr. Sikandar Singh. Besides ancestral property, Dr. Amar Singh will also give Rs.25,00,000/- to Smt. Kamla Devi.

Let the statements of Dr. Amar Singh, Smt. Kamla Devi and Dr. Sikandar Singh be recorded by the Deputy Registrar (Judicial) of this Court on 01.05.2018.

In the statements to be recorded by the Deputy Registrar (Judicial), the particulars of the property which shall accrue to Smt. Kamla Devi and Dr. Sikandar Singh shall be specified, along with the mode and date when Rs.25,00,000/- shall be paid by Dr. Amar Singh to Smt. Kamla Devi.

Let the matter be listed on 08.05.2018."

Today, learned counsel for the parties have stated that terms of amicable settlement recorded in the order dated 20.04.2018 have fallen on the ground. Hence, present petitions be decided on merits.

Therefore, both the petitions were taken separately for hearing.

S.B. Criminal Misc. Petition No.1550/2017:

Petitioner had lodged case FIR No.51/2010 at Police Station Kotwali, Ajmer for offences under Sections 406, 409, 420, 465, 467, 468, 471 IPC against respondent No.2. The above said FIR was thoroughly investigated and the investigating agency submitted Final Report in negative form. The protest petition filed by the petitioner was treated as a complaint by following procedure prescribed under Section 202 Cr.P.C. and statement of petitioner-complainant was recorded by the Court of Magistrate as preliminary evidence. After appreciating evidence gathered and statement made by the complainant-petitioner, the court held that there was no intention to cheat. Furthermore, the court held that because of absence of mens rea which is essential for the offences alleged, no offence is made out. Aggrieved against the same,

petitioner filed revision petition. The revision petition was dismissed and the order passed by the trial court was upheld.

Two courts below have appreciated rival submissions and have also taken into consideration the evidence gathered by the investigating agency to submit Final Report in negative form, this court being third court shall not reappreciate or reevaluate factual position. The orders passed by the two courts below are neither perfunctory nor perverse.

Hence, present petition being devoid of merit is dismissed.

S.B. Criminal Misc. Petition No.4030/2016:

Learned counsel for the petitioner, having argued the matter at some length, has prayed that the present petition be dismissed as withdrawn with liberty to the petitioner to raise all arguments available to him before the trial court at appropriate stage.

As prayed, present petition is dismissed as withdrawn with liberty, as aforesaid.

(KANWALJIT SINGH AHLUWALIA),J

Govind/

सत्यमेव जयते