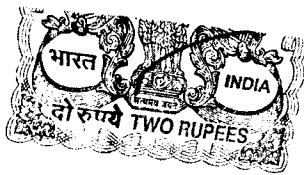


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IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

620

S.B. CRIMINAL MISC. PETITION No. -----/2024

Surendra Nitharwal S/O Shri Pokharmal Jat,
R/O Pratap Pura, Police station Laxmangarh,
district Sikar (Raj.)

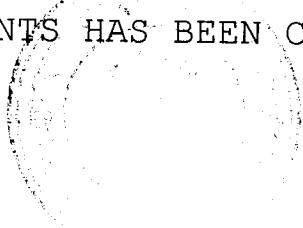
ACCUSED/PETITIONER

VERSUS

1. State of Rajasthan through P.P.
2. Smt. Vimla Devi W/O Shri Ramavtar, R/O
Narayan ka bas, tehsil Laxmangarh,
district Sikar (Raj.)

COMPLAINANT/NON-PETITIONERS

S.B. CR. MISC. PETITION U/S. 482
CR.P.C. AGAINST THE ORDER DATED 29-
01-2024 PASSED BY MS. HEENA PARIHAR
LEARNED ADDITIONAL DISTRICT AND
SESSION JUDGE LAXMANGARH, DISTRICT
SIKAR IN CASE NO. CIS NO 53/2019
STATE OF RAJ. V/S SURENDRA AND
OTHERS WHEREBY OPPORTUNITY FOR FINAL
ARGUMENTS HAS BEEN CLOSED,



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

S.B. Criminal Miscellaneous (Petition) No. 620/2024

Surendra Nitharwal S/o Shri Pokharmal Jat, R/o Pratap Pura,
Police Station Laxmangarh, District Sikar (Raj).

----Petitioner

Versus

1. State of Rajasthan, through P.P.
2. Smt. Vimla Devi W/o Shri Ramavtar, R/o Narayan Ka Bas,
Tehsil Laxmangarh, District Sikar (Raj).

----Respondents

For Petitioner(s) : Mr. B.R. Chaudhary
For Respondent(s) : Mr. Atul Sharma, PP
Mr. R.B. Mathur, Sr. Adv. with
Mr. Achintya Kaushik
Mr. Kapil Prakash Mathur, Vice
Chairman, Bar Council of Rajasthan
Mr. Amit Singh Shekhawat
Mr. Satish Khandal
Mr. Prahlad Sharma
Mr. Susheel Pujari
Mr. Akshat Choudhary
Mr. Suresh Bhekar

HON'BLE MR. JUSTICE SUDESH BANSAL

Order

04/03/2024

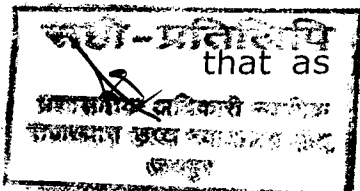
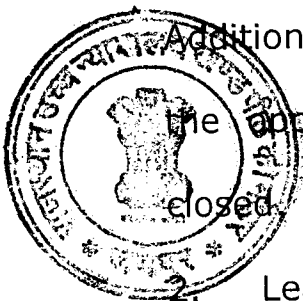
1. The petitioner has filed instant petition under Section 482 CrPC feeling aggrieved by the order dated 29.01.2024 passed in case No.53/2019, State Vs. Surendra and Others, by the Court of

Additional Sessions Judge, Laxmangarh, District Sikar, whereby the opportunity of final arguments of petitioner accused was closed.

Learned counsel for petitioner, at the outset, candidly admits

that as far as the grievance of the petitioner is concerned, the

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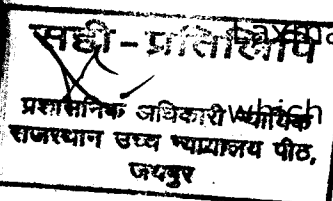
same does not survive any more in view of passing a subsequent order dated 08.02.2024 in misc. petition No.7584/2023, in favour of petitioner, whereby one more opportunity has been granted to petitioner to cross-examine the prosecution witnesses. Thus, obviously petitioner would have opportunity to make his final arguments as well before the trial Judge. As such the grievance of the petitioner against order dated 29-1-2024 stands satisfied.

3. During course of hearing of the instant petition, a letter dated 29.01.2024 issued by the President, Bar Association Laxmangarh, District Sikar was brought to the notice of this Court whereby a death reference on a sudden demise of a young lawyer on 26/27.01.2024 was declared to be observed and, for that reason, members of the Bar Association Laxmangarh, District Sikar refrained themselves from appearing in Court deciding not to discharge judicial work for whole day. Since the letter dated 29.01.2024 issued by the President, Bar Association Laxmangarh, District Sikar was found to be in contravention of notifications dated 05.07.2002 and 25.04.2015 issued by the Registrar General, Rajasthan High Court, Jodhpur, dealing with the issue of holding death references in Courts, wherein death reference for an enrolled member of the Bar also included, therefore, this Court vide order dated 02.02.2024 issued notice to President, Bar Association Laxmangarh, District Sikar to explain the issuance of letter dated 29.01.2024.

Pursuant thereto, the President, Bar Association

Laxmangarh, District Sikar has filed reply and additional reply, which are available on record. In the reply and additional reply

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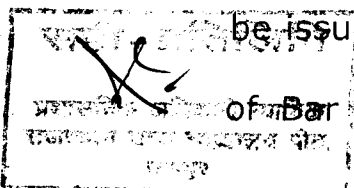
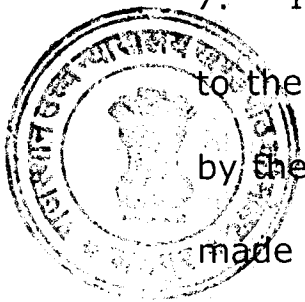
Several contentions have been made justifying the deference from judicial work by the Advocates/ members of the Bar Association Laxmangarh, District Sikar on account of holding a death reference to mourn death of a young lawyer. But only the convincing ground of explanation is that the letter was issued because of ignorance of the notifications dated 05.07.2002 and 25.04.2015 issued by the Registrar General, Rajasthan High Court, Jodhpur.

5. Since the issue cropped up on issuance of letter dated 29.01.2024 pertains to holding death reference, on demise of a member of the Bar, being an issue of common cause, apart from sentimental and due to which judicial work of Courts adversely affected, as well as the interest of litigants at large also remained at stake, therefore, to address the issue in right track, the Bar Council of Rajasthan was also called to assist the Court. The Bar Council of Rajasthan is a statutory body which governs the conduct of Advocates in all over the State of Rajasthan, wheresoever they are discharging their legal duties.

6. Learned Senior Advocate, Mr.R.B. Mathur, has appeared on behalf of Bar Council of Rajasthan and filed reply addressing on the clinching issue.

7. In the reply filed by the Bar Council of Rajasthan, adherence to the two notifications dated 05.07.2002 and 25.04.2015 issued by the Registrar General, Rajasthan High Court, Jodhpur has been made and it has been pointed out that these notifications came to

be issued by the Hon'ble Committee comprising of representatives of Bar Council of Rajasthan, Bar Associations of the Rajasthan

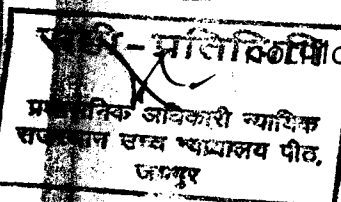


High Court Jodhpur/ Jaipur, which suggested norms/ guidelines with regard to procedure for holding death reference in court premises, in case of demise of any Member of the Bench or the Bar. It has been pointed out that both notifications have been duly approved by the Hon'ble Full Court of the Rajasthan High Court, thus, these notifications have binding force on all Bar Associations in the Rajasthan High Court, Jodhpur, Jaipur, District Courts including Subordinate Courts at sub-District Level and Tehsil Level, and are functioning in the State of Rajasthan.

8. Learned Senior Advocate, Mr.R.B. Mathur, appearing on behalf of Bar Council of Rajasthan, while extending credence to both notifications dated 05.07.2002 and 25.04.2015 has expressed that there are few laches on the part of Bar Council for not circulating these notifications widely bringing them in notice to all Bar Associations in all over the State of Rajasthan. However, he states that now it has been done by uploading these notifications on the website/ internet.

9. In view of the reply of the Bar Council of Rajasthan, the explanation filed by the Bar Association Laxmangarh, District Sikar, in the form of reply/ additional reply, seems to be bonafide and the letter dated 29.01.2024 could have been issued on account of unawareness of two notifications dated 05.07.2002 and 25.04.2015.

10. Before summing up, it would be just and proper that both notifications dated 05.07.2002 and 25.04.2015, which cover the



issue of holding death references on account of demise of any Member of the Bench or the Bar, are reproduced hereunder:-

"RAJASTHAN HIGH COURT, JODHPUR
NOTIFICATION

No. 03/Misc./2002

Dated:05/07/02

As a result of the consensus arrived at in the meetings held between the Hon'ble Committee, (constituted to examine the matter and to suggest norms/ guidelines for holding death references) and the representatives of the Bar Council of Rajasthan, the Rajasthan High Court Advocates' Association, Jodhpur, the Rajasthan High Court Bar Association, Jaipur, the Hon'ble Full Court has prescribed the norms and issued the guidelines with regard to procedure to be followed in the case of demise of any Member of the Bench or the Bar or any other dignitary, as under:-

(a) In the event of the demise of the following persons, the Court shall remain closed as a mark of respect :-

1. President of India (Sitting)
2. Vice-President of India (Sitting)
3. Prime Minister of India (Sitting)
4. Chief Justice of India (Sitting)
5. Judges of Supreme Court of India (Sitting)
6. Governor of the State (Sitting)
7. Chief Minister of the State (Sitting)
8. Chief Justice of the State (Sitting)
9. Chief Justice of the State (Retd.)
10. Judges of the State (Sitting)

(b) In the event of the demise of the following persons, reference shall be held at 11:30 a.m. in the morning hours and at 3:30 p.m. in the day hours:-

1. Chief Justice of India (Sitting)
2. Chief Justice of India (Retd.)
3. Judges of the Supreme Court of India (Sitting)
4. Governor of the State (Sitting)
5. Chief Justice of the State (Sitting)
6. Chief Justice of the State (Retd.)
7. Judges of the State (Sitting)
8. Judges of the State (Retd.)
9. Attorney General of India
10. Advocate General of the State
11. Advocate on roll (as per demand of the Bar & considered by the Hon'ble Chief Justice)

"Any other High Dignitaries considered by the Hon'ble Chief Justice proper for holding reference."

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BY
[Signature]
[Name]
[Title]

(c) In case of holiday being declared on the death of a dignitary as mentioned above, death reference shall be held on the next day hours and 11:00 a.m. in the morning hours.

(d) In the event of the death of a Member of the Bar, the President of the Rajasthan High Court Advocates' Association, Jodhpur and/ or the President of the Rajasthan High Court Bar Association, Jaipur before making a request to the Hon'ble Chief Justice for holding death reference shall satisfy that

(a) it is accompanied by the life sketch of the deceased advocate;

(b) the deceased advocate was enrolled as an advocate before completing fifty five years and had put in ten years of active practice.

(c) that the deceased advocate was not convicted during his life time for the offence of moral turpitude and/ or punished for professional misconduct or compulsorily retired from public service.

The aforesaid procedure shall be strictly followed.

By Order
sd/-

Registrar General

Dated:5-7-2002

No.Gen/XV/Ref./05/91/420

Copy forwarded to the following for information and necessary action:-

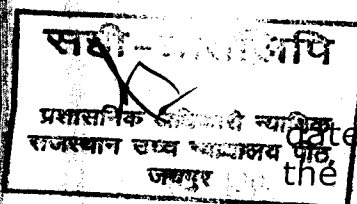
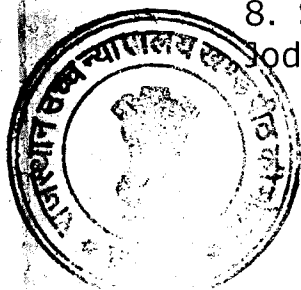
1. The P.S. to Hon'ble Mr. Justice.
2. The Advocate General, Rajasthan, Jaipur
3. The Chairman, Bar Council of Rajasthan through the Secretary, Bar Council of Rajasthan, Jodhpur.
4. The President, Rajasthan High Court Advocates' Association, Jodhpur
5. The President, Rajasthan High Court Bar Association, Jaipur
6. The Registrar (Admn.), Rajasthan High court, Jodhpur/ Jaipur Bench, Jaipur
7. The Dy. Registrar (Judicial), Rajasthan High Court, Jodhpur/ Jaipur Bench Jaipur
8. Superintendent (General Section), Rajasthan High Court, Jodhpur."

RAJASTHAN HIGH COURT, JODHPUR
NOTIFICATION

No. 03/Misc./2015

Dated:25/4/2015

Pursuant to the Resolution of Hon'ble Full Court dated 13.04.2015, henceforth, the References shall beheld in the event of death of the Judge, or a Bar Member, or any



an

other dignitary, at 4:00 P.M. and, at 12.15 P.M. in case of Morning Courts, in the High court. Such references shall be held at 03:45 P.M. and, at 11:45 A.M. in case of Morning Courts in the District Courts. All other conditions for holding references shall remain the same as resolved by Full Court dated 27.05.2002, communicated earlier vide letter/ order No.03/Misc./2002 dated 05.07.2002.

By Order
sd/-

Registrar General
Dated:25/4/2015

No.Gen/XV/Ref./05/91/2348

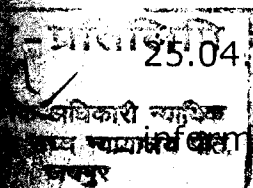
Copy forwarded to the following for information and necessary action:-

1. P.S. to Hon'ble Mr. Justice.
2. The Advocate General, Rajasthan, Jaipur
3. The Chairman, Bar Council of Rajasthan through the Secretary, Bar Council of Rajasthan, Jodhpur.
4. The President, Rajasthan High Court Advocates' Association, Jodhpur/ Jaipur
5. President, Rajasthan High Court Bar Association, Bani Park, Jaipur
6. President, Rajasthan High Court Lawyer's Association, Jodhpur
7. All the District & Sessions Judge alongwith a copy of this office Notification NO.03/Misc./2002 dated 05.07.2002.
8. The Registrar (Admn.), Rajasthan High court, Jodhpur/ Jaipur Bench, Jaipur
9. The Dy. Registrar (Judicial), Rajasthan High Court, Jodhpur/ Jaipur Bench Jaipur
10. AOJ, General Section, Rajasthan High Court, Jodhpur."

11. The Bar Association Laxmangarh, District Sikar too does not dispute about the issuance of two notifications dated 5-7-2002 and 25-4-2015 regarding holding death reference on demise of a member of the Bar. This court records the stand of the Bar Council of Rajasthan that now both notifications have been displayed on the website for communication to all respective Bar Associations presently in existence/ and functioning in the State of Rajasthan.

12. In addition to above, A perusal of the notification dated 25.04.2015 reveals that copy of the same was forwarded for information and necessary action to all District and Sessions Judges along with the copy of notification dated 05.07.2002.

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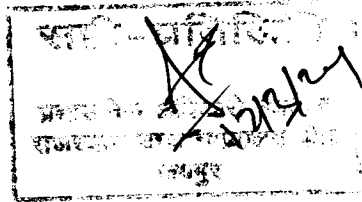
Therefore, without entering into the issue of service of both notifications to all the Bar Associations, the Registrar General, Rajasthan High Court, Jodhpur may seek instructions from Hon'ble the Chief Justice to re-circulate both these notifications along with the copy of this order to all District and Session Judges, who shall apprise the same to all Subordinate Courts in their respective judgship for appraisal of the Bar Associations functioning in the area.

13. The petition stands disposed of accordingly.




(SUDESH BANSAL), J

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NOTIFICATION

No. 03/Misc./2002

Dated: 05/07/02. (4)

As a result of the consensus arrived at in the meetings held between the Hon'ble Committee, (constituted to examine the matter and to suggest norms / guidelines for holding death references) and the representatives of the Bar Council of Rajasthan, the Rajasthan High Court Advocates' Association, Jodhpur, the Rajasthan High Court Bar Association, Jaipur, the Hon'ble Full Court has prescribed the norms and issued the guidelines with regard to procedure to be followed in the case of demise of any Member of the Bench or the Bar or any other dignitary, as under :-

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2. Vice-President of India (Sitting)
3. Prime Minister of India (Sitting)
4. Chief Justice of India (Sitting)
5. Judges of Supreme Court of India (Sitting)
6. Governor of the State (Sitting)
7. Chief Minister of the State (Sitting)
8. Chief Justice of the State (Sitting)
9. Chief Justice of the State (Retd.)
10. Judges of the State (Sitting)

(b) In the event of the demise of the following persons, reference shall be held at 11:30 a.m. in the morning hours and at 3:30 p.m. in the day hours :-

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2. Chief Justice of India (Retd.)
3. Judges of Supreme Court of India (Sitting)
4. Governor of the State (Sitting)
5. Chief Justice of the State (Sitting)
6. Chief Justice of the State (Retd.)
7. Judges of the State (Sitting)
8. Judges of the State (Retd.)
9. Attorney General of India.
10. Advocate General of the State.
11. Advocate on roll (as per demand of the Bar & considered by Hon'ble Chief Justice).

"Any other High Dignitaries considered by Hon'ble Chief Justice proper for holding reference."

(c) In case of holiday being declared on the death of a dignitary as mentioned above, death reference shall be held on the next day or any other day at 3:30 p.m. during the day hours and 11:00 a.m. in the morning hours.

(d) In the event of the death of a Member of the Bar, the President of Rajasthan High Court Advocates' Association, Jodhpur and / or the President of Rajasthan High Court Bar Association, Jaipur before making a request to the Hon'ble Chief Justice for holding death reference shall satisfy that :-

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[2]

(a) it is accompanied by the life sketch of the deceased advocate;

(b) the deceased advocate was enrolled as an advocate before completing fifty five years and had put in ten years of active practice.

(c) that the deceased advocate was not convicted during his life time for the offence of moral turpitude and / or punished for professional misconduct or compulsorily retired from public service.

The aforesaid procedure shall be strictly followed.

By Order

[Signature]
REGISTRAR GENERAL

No.Gen/XV/Ref./05/91/1420

Dated: 5-7-2002

Copy forwarded to the following for information and necessary action :-

1. The P.S. to Hon'ble Mr. Justice.
2. The Advocate General, Rajasthan, Jaipur.
3. The Chairman, Bar Council of Rajasthan through the Secretary, Bar Council of Rajasthan, Jodhpur.
4. The President, Rajasthan High Court Advocates' Association, Jodhpur.
5. The President, Rajasthan High Court Bar Association, Jaipur.
6. The Registrar (Admn.), Rajasthan High Court, Jodhpur/ Jaipur Bench, Jaipur.
7. The Dy. Registrar (Judicial), Rajasthan High Court, Jodhpur/ Jaipur Bench, Jaipur.
8. Superintendent (General Section), Rajasthan High Court, Jodhpur.

[Signature]
REGISTRAR GENERAL

RAJASTHAN HIGH COURT, JODHPUR**NOTIFICATION**

No.03/Misc./2015

Date: 25/04/2015

Pursuant to the Resolution of Hon'ble Full Court dated 13.04.2015, henceforth, the References shall be held in the event of death of a Judge, or a Bar Member, or any other dignitary, at 4.00 P.M. and, at 12.15 P.M. in case of Morning Courts, in the High Court. Such references shall be held at 02.15 P.M. and, at 11.45 A.M. in case of Morning Courts in the District Courts. All other conditions for holding references shall remain the same as resolved by Full Court dated 27.05.2002, communicated earlier vide letter/order No. 03/Misc./2002 dated 05.07.2002.

By Order


REGISTRAR GENERAL

No. Gen/XV/Ref./05/91/ 2348

Date: 25/4/15

Copy forwarded to the following for information & necessary action :-

01. P.S. to Hon'ble Mr. Justice
02. The Advocate General, Rajasthan, Jaipur.
03. The Chairman, Bar Council of Rajasthan through the Secretary, Bar Council of Rajasthan, Jodhpur.
04. The President, Rajasthan High Court Advocates' Association, Jodhpur/Jaipur.
05. President, Rajasthan High Court Bar Association, Bani Park, Jaipur.
06. President, Rajasthan High Court Lawyer's Association, Jodhpur.
07. All the District & Sessions Judges alongwith a copy of this office Notification No. 03/Misc./2002 dated 05.07.2002.
08. The Registrar (Admn.), Rajasthan High Court, Jodhpur/Jaipur Bench, Jaipur.
09. The Deputy Registrar (Judl.), Rajasthan High Court, Jodhpur / Jaipur Bench, Jaipur.
10. A.O.J., General Section, Rajasthan High Court, Jodhpur.


REGISTRAR GENERAL