REPORTABLE

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

Judgment reserved on: 29.10.2026

Judgment delivered on: 02.11.2026

Judgment (Full) uploaded on: 02.11.2026

D.B. Civil Reference No. 2/2026

In

S.B.Civil Writ Petition No.16049/2026
CNR: RJHC020994472026 | URN: CREF / 5U / 2026

Ravi Kumar S/o Dharam Singh, Aged About 31 Years, R/o Purbaikhera Ps Rudawal Tehsil Bayana Dist. Bharatpur Raj.

----Petitioner

Versus

1. State Of Raj., Through PP.
2. Dheeraj S/o Rambabu, Aged About 35 Years, R/o Purbaikhera Ps Rudawal Tehsil Bayana Dist. Bharatpur Raj.
3. Bhupendra S/o Rambabu, Aged About 33 Years, R/o Purbaikhera Ps Rudawal Tehsil Bayana Dist. Bharatpur Raj.
4. Sondev S/o Rambabu, Aged About 25 Years, R/o Purbaikhera Ps Rudawal Tehsil Bayana Dist. Bharatpur Raj.
5. Anil S/o Kishan, Aged About 23 Years, R/o Purbaikhera Ps Rudawal Tehsil Bayana Dist. Bharatpur Raj.
6. Rambabu S/o Sukaram, Aged About 73 Years, R/o Purbaikhera Ps Rudawal Tehsil Bayana Dist. Bharatpur Raj.
7. Vikaram S/o Kishan, Aged About 31 Years, R/o Purbaikhera Ps Rudawal Tehsil Bayana Dist. Bharatpur Raj.

----Respondents

For Petitioner(s) : Mr. Nitin Jain
Ms. Kriti Kalawatia
Mr. Vaibhav Pareek
Mr. Rajeev Bhushan Bansal

Ms. Ritu Bansal
Mr. Rahul Kumar
Mr. Vaibhav Nirmal
Mr. Shubham Rohila
Mr. Vedant Agarwal
Mr. Swapnil Upman
Mr. Naman Maheshwari
Mr. Vishwas Fatehpuria
Mr. Parmeshwar Lal Pilania
Mr. Avi Airun
Mr. Rajesh Kala
Mr. Jitendra Mitruka
Mr. Aniroodh Mathur
Mr. Krishnveer Singh
Mr. Naman Yadav
Mr. Punit Singhvi
Mr. Kapil Gupta
Mr. Chitransh Sharma
Mr. Tanay Choudhary

Mr. Rajesh Joshi, Sr. Adv. through VC
Mr. Vikas Baliya, Sr. Adv. With
Ms. Sheetal Kumbhat through VC
Mr. Dilip Singh Udawat through VC
Mr. Arun Kumar Jhajhariya through VC
Mr. Harshit Bhurani through VC
Mr. Raunak Singhvi through VC
Mr. Anshuman Singh Champawat through VC
Ms. Kamini Joshi through VC
Mr. Aniruddh Kothari through VC
Mr. Maheshwar Singh Bhati through VC
Mr. Yash Tripathi through VC
Mr. Shivam Harsh through VC
Mr. Moti Singh through VC
Mr. Sumit Singhal through VC
Dr. RDSS Kharlia through VC
Mr. Chandan Singh Jodha through VC
Mr. Pradeep Rajpurohit through VC
Mr. Kailash Sharma through VC
Mr. Siddharth Tanwar through VC
Mr. Dungar Dan Charan through VC
Mr. Bharat Gurjar through VC

For Respondent(s) : Mr. Rajendra Prasad, AG with
Mr. Sheetanshu Sharma &
Ms. Dhriti Laddha
Mr. Rajesh Choudhary, GA cum AAG with Ms. Neha Goel &
Mr. Aman Agarwal

Full Bench

HON'BLE THE CHIEF JUSTICE MR. SANJAY K. AGRAWAL

HON'BLE MR. JUSTICE SAMEER JAIN

HON'BLE MR. JUSTICE ANUROOP SINGHI

C.A.V. JUDGMENT

Sanjay K. Agrawal, CJ

For the sake of convenience, the judgment is divided in following parts:

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Preface

1. Anand Sharma, J, while hearing Civil Writ Petition finding conflict with direction issued by Division Bench on 07.07.2026 in the matter of **Jiya & Others v. The Government of Rajasthan & Others**[1]: with Rule 315(1)(h) of the Rules of the High Court of

1 D.B. Criminal Writ Petition No.128/2018

Judicature for Rajasthan, 1952, referred the following questions of law for consideration:

The questions of law referred to Full Bench

> *"i) Whether, having regard to Rule 315(1)(h) of the Rules of the High Court of Judicature for Rajasthan, 1952, a petition under Article 226 of the Constitution arsing out of, or concerning, a criminal matter/proceeding can be separately registered as an S.B. Criminal Writ Petition, or is required to be treated as an S.B. Civil Writ Petition for the purposes of its registration, classification and placement before the appropriate roster?*
>
> *ii) Whether the nomenclature "Criminal Writ Petition" is merely a matter of Registry classification or whether such classification reflects the substantive character of a proceeding arising from criminal jurisdiction?*
>
> *iii) Whether Rule 315(1)(h) of the Rules of the High Court of Judicature for Rajasthan, 1952, which expressly contemplates registration of an application for issuance of a writ under Article 226 "in a criminal matter", can be rendered inoperative or ignored by a judicial direction without holding the Rule to be ultra vires or unconstitutional?*
>
> *iv) Whether order dated 07.07.2026 passed by the Division Bench of this Court in the case of **Jiya & Ors. v. The Government of Rajasthan & Ors., (D.B. Criminal Writ Petition No. 128/2018)**, to the extent that it directs that no petition be registered as a "Criminal Writ Petition" and that a writ petition relating to a criminal matter can only be registered as a "Civil Writ Petition", is reconcilable with Rule 315(1)(h) of the Rules of the High Court of Judicature for Rajasthan, 1952?*
>
> *v) Whether, in the event of an irreconcilable conflict being found, order dated 07.07.2026 passed by Division Bench of this Court in the case of **Jiya & Others v. The Government of Rajasthan & Others, (D.B.Criminal Writ Petition No.128/2018)** requires reconsideration by a Larger Bench so as to avoid any inconsistency with Rule 315(1)(h) of the Rules of the High Court of Judicature for Rajasthan, 1952?"*

Factual background

2. The central controversy is whether a writ petition arising from a criminal matter must be registered and classified as a criminal matter under Rule 315(1)(h) of the Rules of the High Court of Judicature for Rajasthan, 1952 (hereinafter referred to as

"the Rajasthan High Court Rules") notwithstanding the Division Bench directions in **Jiya** (supra), order dated 07.07.2026, that the Registry should not register any case under the nomenclature "Criminal Writ Petition". The order dated 07.07.2026 states as under:

> *"1. The petitioner has filed this petition in the nature of D.B. Criminal Writ Petition.*
>
> *2. Registry has also entertained it as a Criminal Writ Petition, whereas there is no such concept of Criminal Writ Petition provided in the Constitution.*
>
> *3. A writ petition can be filed for raising the issues which may also relate to a criminal matter but the same would not be treated as a 'Criminal Writ Petition' and the same can only be registered as a writ petition alone.*
>
> *4. It is for the Court to examine the case or for the purpose of placing them before the concerned roster. Henceforth, the Registry is directed not to register any case as 'Criminal Writ Petition'.*
>
> *5. This case was adjourned sine die without any plausible reasons earlier.*
>
> *6. Office is directed to treat the present 'D.B. Criminal Writ Petition' to 'D.B. Civil Writ Petition'.*
>
> *7. For the purpose of statistics, the present D.B. Criminal Writ Petition is disposed of.*
>
> *8. Office to check and proceed further."*

3. The foremost question to be dealt is whether, having regard to Rule 315(1)(h) of the Rajasthan High Court Rules, a petition under Article 226 concerning a criminal matter or proceeding can be separately registered as an S.B. Criminal Writ Petition, or is required to be treated as an S.B. Civil Writ Petition for the purposes of registration, classification and placement before the appropriate roster?

Rule 315 of the Rajasthan High Court Rules, 1952

4. The the Rajasthan High Court Rules are framed in exercise of statutory and constitutional power. Rule 1 states as under:

> *"These Rules are made by the High Court of judicature for Rajasthan in exercise of the powers conferred by section 46 of the Rajasthan High Court Ordinance, 1949, read with Article 225 of the Constitution of India and all other powers enabling it in that behalf."*

5. Rule 315 of the Rajasthan High Court Rules is placed in Part III (Criminal Jurisdiction), Chapter XVIII. Its relevant part states as under:

> *"**315. Cases to be registered and numbered.-** (I) The following applications shall be registered and numbered after presentation as criminal miscellaneous cases, namely:-…*
>
> *(a) to (g) xxxxxxx*
>
> *(h) application for the issue of a writ under Article 226 of the Constitution in a criminal matter;*
>
> *(i) to (j) xxxxxx"*

6. Rule 315(1) of the Rajasthan High Court Rules places an application for the issue of a writ under Article 226 in a criminal matter in the same class as an application for bail, for cancellation of bail, for transfer of a case, under section 491 of the Code of Criminal Procedure, and for proceedings in contempt of Court. Each of them is to be "registered and numbered after presentation as criminal miscellaneous cases". The Rules thus place a writ petition in a criminal matter at par with criminal miscellaneous cases. The nomenclature "Criminal Writ Petition" only identifies, within that criminal class, the writ petitions so registered.

7. The procedure for criminal cases in Chapter XVIII applies to such petitions from the stage of presentation. Rule 307 of the Rajasthan High Court Rules states as under:

> *"Every petition of appeal or application for revision or other application in a criminal matter shall be presented before the official appointed for the purpose by the Registrar, who shall immediately fix a date not more than five days ahead."*

8. Rule 850 of the Rajasthan High Court Rules (Part VIII) provides separate Institution Registers for, among others, "(16) Writ Cases." and "(20) Criminal Miscellaneous Cases." To the extent of any inconsistency, Rule 123(1) gives primacy to the Rules in Part III:

> *"Where any rule contained in Part III, IV, V or VII is inconsistent with any rule in any other Part, the former shall prevail and the latter shall, to the extent of such inconsistency, be deemed to have been modified or repealed so far as the former is concerned."*

9. A writ petition in a criminal matter is therefore registered and entered as a criminal miscellaneous case under Rule 315(1)(h), and not as a general writ case. The direction in Jiya to treat such a petition as a "Civil Writ Petition" takes it out of the criminal class altogether, contrary to Rule 315(1)(h) of the Rajasthan High Court Rules read with Rule 123(1) of the Rajasthan High Court Rules.

10. Rule 54 of the Rajasthan High Court Rules vests the allocation of work in Hon'ble the Chief Justice:

> *"Judges shall sit alone or in such Division Courts as may be constituted from time to time and do such work as may be allotted to them by order of the Chief Justice or in accordance with his direction."*

11. Rule 134(i) of the Rajasthan High Court Rules excludes a special appeal against a judgment of a Single Judge rendered "in the exercise of criminal Jurisdiction". The classification under Rule 315(1)(h) of the Rajasthan High Court Rules thus carries direct legal consequences under Rule 134(i) and under the roster made under Rule 54 of the Rajasthan High Court Rules.

12. The Constitution of India itself distinguishes between a "civil proceeding" (Article 133) and a "criminal proceeding" (Article 134) of a High Court. The finding in **Jiya** (supra) that "there is no such concept of Criminal Writ Petition provided in the Constitution" (para 2) overlooks this distinction provided in the Constitution of India.

Difference between civil and criminal proceedings

13. The Constitution of India distinguishes between the 'civil proceedings' and 'criminal proceedings', but the Constitution does not create a separately enumerated constitutional jurisdiction called "Criminal Writ Petition" does not, by itself, answer whether the High Court may classify proceedings administratively as criminal writ matters or criminal miscellaneous cases. The difference between the "Civil Proceedings" and "Criminal Proceedings" is firmly explained by the Hon'ble Supreme Court in the ratio encapsulated in **Ram Kishan Fauji v. State of Haryana[2],** wherein the Court opined that "Civil proceedings" are those in which a person seeks to enforce an alleged civil right against another person or the State. The relief may include declaration of rights, recovery of money, damages, compensation,

2 (2017) 5 SCC 533

delivery of property, enforcement of personal rights or determination of status; whereas “Criminal proceedings” Proceedings are those which, if carried to their conclusion, may result in a criminal sentence, such as imprisonment, fine or forfeiture of property. The category also encompasses certain preventive proceedings undertaken in the larger interest of maintaining public peace and order. For the sake of handiness the relevant extract from the above relied judgment is reproduced hereinbelow:

> *"28. The Court in Ishwarlal Bhagwandas, AIR 1965 SC 1818 referred to Article 133 of the Constitution and took note of the submission that the jurisdiction exercised by the High Court as regards the grant of certificate pertains to judgment, decree or final order of a High Court in a civil proceeding and that "civil proceeding" only means a proceeding in the nature of or triable as a civil suit and a petition for the issue of a high prerogative writ by the High Court was not such a proceeding. Additionally, It was urged that even if the proceeding for issue of a writ under Article 226 of the Constitution may, in certain cases, be treated as a civil proceeding, it cannot be so treated when the party aggrieved seeks relief against the levy of tax or revenue claimed to be due to the State. The Court, delving Into the nature of civil proceedings, noted that: (AIR p. 1821, para 8)*
>
> > *"8.... The expression "civil proceeding" is not defined in the Constitution, nor in the General Clauses Act. The expression in our judgment covers all proceedings in which a party asserts the existence of a civil right conferred by the civil law or by statute, and claims relief for breach thereof.*
>
> *29. After so stating, the Court elucidated the nature of criminal proceeding and, in that regard, ruled thus: (Ishwarlal Bhagwandas case", AIR p. 1821, para 8)*
>
> > *"8.... A criminal proceeding on the other hand is ordinarily one in which if carried to its conclusion it may result in the imposition of sentences such as death, imprisonment, fine or forfeiture of property. It also includes proceedings in which in the larger interest of the State, orders to prevent apprehended breach of the peace, orders to bind down persons who are a danger to the maintenance of peace and order, or orders aimed at preventing vagrancy are contemplated to be passed."*

30. Explicating the concept further, the Court opined that: (Ishwarlal Bhagwandas case, AIR p. 1821, para 8)

> *"8.* ***The character of the proceeding, in our judgment, depends not upon the nature of the tribunal which is invested with authority to grant relief, but upon the nature of the right violated and the appropriate relief which may be claimed.****"*
>
> *It further held that a civil proceeding is, therefore, one in which a person seeks to enforce by appropriate relief the alleged infringement of his civil rights against another person or the State, and which, if the claim is proved, would result in the declaration, express or implied, of the right claimed and relief such as payment of debt, damages, compensation, delivery of specific property, enforcement of personal rights, determination of status, etc.*

31. ***The aforesaid authority makes a clear distinction between a civil proceeding and a criminal proceeding. As far as criminal proceeding is concerned, it clearly stipulates that a criminal proceeding is ordinarily one which, if carried to its conclusion, may result in imposition of (i) sentence, and (ii) it can take within its ambit the larger interest of the State, orders to prevent apprehended breach of peace and orders to bind down persons who are a danger to the maintenance of peace and order.*** *The Court has ruled that the character of the proceeding does not depend upon the nature of the tribunal which is invested with the authority to grant relief but upon the nature of the right violated and the appropriate relief which may be claimed.*

(emphasis supplied)"

14. It is appropriate to mention here that the correctness of the decision rendered in the matter of **Ram Kishan Fauji** (supra) was doubted in the matter of **Sanjay Prasad Vs. Madhusudan Dwivedi and Ors.**[3] qua restricting to filing of intra-court appeal and referred to the Larger Bench on following terms of reference**:**

> *"Does the decision in* ***Ram Kishan Fauji v. State of Haryana, (2017) 5 SCC 533*** *correctly interpret the Letters Patent governing the various high courts on maintainability of intra-court appeals in the light of the nature of jurisdiction conferred by Article 226 of the Constitution, adverted to above? Does the ratio not, effectively, negate*

3 (2026) INSC 1128

*proper access to justice at the intra-court appellate level, apart from creating a division in Article 226 not contemplated by the framers of the Letters Patent or the Constitution? Should the decision in **Ram Kishan Fauji** (supra) be revisited in view of the discussions in paragraphs 49 to 51 of the opinion?"*

15. Though the correctness of **Ram Kishan Fauji** (supra) has been doubted and it has been referred to the Larger Bench, but the fact remains that at present it has precedential value and it binds us.

16. Similarly, in the matter of **Pay 10 Services Pvt. Ltd. V. Union of India**[4], the Delhi High Court observed that the nature of the dispute, the genesis of the proceedings and the relief sought must be considered when deciding whether a petition belongs to the civil or criminal side. It did not treat the nomenclature alone as determinative of constitutional jurisdiction.

17. Further, the ratio passed by the Division Bench of High Court of Bombay in the matter of **M/s Nagpur Cable Operators' Association v. Commissioner of Police, Nagpur and Anr.**[5] also holds substance. The relevant extract from the same is reproduced hereinbelow:

"21. In the light of the aforesaid legal position explaining the nature of proceedings under Article 226 of the Constitution, and the classification whether the said proceeding is civil or criminal, when the provisions of the Appellate Side Rules are looked into, it would be found that all applications under Article 227 of the Constitution challenging the orders and decisions of the Courts constituted under the Criminal Procedure Code are dealt with on the side of criminal business of the Appellate Side of this Court, but the said clause (i) of Part II, Criminal of Rule 2 of Chapter I is not all exhaustive. Rule 2B of Chapter I, as observed above, states that all petitions/applications under Article 226/227 of the Constitution arising out of or relating to the order of penalty or confiscation or an order

4 W.P.(c) 1592/2026

5 . 1995 SCC OnLine Bom 241

*in the nature thereof or an order otherwise of penal character and passed under any Special Statute shall be heard and decided by the Division Bench hearing writ petitions. This rule only allocates that the class of petitions/applications under Articles 226 and/or 227 of the Constitution of India mentioned in Rule 2-B shall be decided by the Division Bench hearing writ petitions, but does not classify the nature of proceedings whether the said writ petition/application shall be criminal or civil writ petition. Applying the tests laid down by the Apex Court in Narayan Row's case (supra), we are of the view that if the writ petition/application under Articles 226 and/or 227 of the Constitution arises out of or relates to a proceeding in which, if carried to its conclusion ultimately it may result in sentence of death or by way of imprisonment, fine or forfeiture of the property then such writ petition/application under Article 226 of the Constitution of India and/or under Article 227 of the Constitution, should be treated as a "criminal writ petition" and styled as such. For hearing and decision of such petition, it should be listed before the Division Bench allocated such business by Hon'ble the Chief Justice or if it pertains to the single Judge jurisdiction, before the Bench assigned such work. As regards petitions/applications under Article 226 of the Constitution seeking writs or orders in the nature of habeas corpus, Rule 1 of Chapter XXVIII of Appellate Side Rules, also provides only allocation of such writ petitions to the Division Bench taking criminal business of the Appellate Side of the High Court. Obviously, since the petitions/applications under Article 226 of the Constitution of India for issuance of writs of habeas corpus arise out of the unlawful detention, in its very nature, such petitions too should be styled as criminal writ petitions. Criminal writ petitions would also cover those writ petitions which arise out of the orders and the matters relating to prevention or breach of peace or maintenance of peace and order or such orders aimed at preventing vagrancy contemplated to be passed***. "Criminal writ petition" shall also take in its embrace the petitions/applications under Article 226 or 227 of the Constitution of India if it arises out of or relates to investigation, enquiry or trial of the offences either under special or general statute. When a statute commands or prohibits an act, disobedience of such statute is prima facie criminal unless criminal proceedings are excluded by such statute and the petitions/applications under Articles 226 and 227 of the Constitution of India in connection thereto or arising therefrom would be criminal proceeding and should be styled as "Criminal Writ Petition".*** *However, such cases are to be distinguished from the cases where an act may be prohibited or commanded by the statute in such a manner that the person contravening the provision is liable to pecuniary penalty and such recovery is to be made a civil debt. In such type of cases the contravention would not be a crime and, therefore, petitions/applications under Articles 226 and 227 of the Constitution of India arising therefrom would not be criminal proceeding.*

22. We would, therefore, direct the Registrar (Appellate Side), the High Court of Judicature at Bombay to take steps in implementing the following directions immediately:-

(i) Every petition/application under Articles 226 and 227 of the Constitution of India should be styled as 'Civil Writ Petition' or 'Criminal Writ Petition', as the case may be.

(ii) Every petition/application under Articles 226/227 of the Constitution of India presented through the Counsel or where such petition/application is presented in person, should be accompanied by the Certificate of the counsel or petitioner in person, as the case may be, that such petition/application is 'Criminal Writ Petition' or 'Civil Writ Petition'.

(iii) The Registry should examine such Writ Petition filed under Articles 226 and 227 of the Constitution of India styled as "Civil Writ Petition" or "Criminal Writ Petition" by finding out the nature of the relief/reliefs claimed in such writ petition and the grounds of such relief/reliefs and if the Registry finds that the Writ Petition has been wrongly styled, such objection must be raised.

(iv) Civil Writ Petitions should be registered by the office in the separate Register under the title, "Civil Writ Petitions Under Articles 226 and 227 of the Constitution of India". Expression 'Special Civil Applications' occurring in clause (vi) of Rule 10 of Chapter V of Appellate Side Rules be read as 'Civil Writ Petitions'. This is so done to continue with the existing practice since 1980.

(v) Criminal Writ Petitions should be registered under the separate head in Register maintained by the office bearing the title, "Applications under the Constitution" under Chapter XXVI, Rule 4(6) of Appellate Side Rules.

(Emphasis supplied)"

Answer to question No.(i)

18. Having considered Rule 315(1)(h) of the Rajasthan High Court Rules, we find that this provision expressly contemplates an

application for issuance of a writ under Article 226 of the Constitution in a criminal matter and mandates that the applications enumerated under Rule 315(1) be registered and numbered as criminal miscellaneous cases. The express inclusion of such writ applications cannot be rendered otiose by treating the criminal nature of the underlying proceedings as wholly irrelevant to their procedural classification.

19. Thus, a petition under Article 226 arising from a criminal matter be classified and assigned to the criminal side in accordance with the applicable High Court Rules and roster, as the provision enumerated in Rule 315(1)(h) expressly contemplates registration as a criminal case; the use of the words "shall be registered" is mandatory in form.

Answer to question No.(ii)

20. The next issue before us is, whether the nomenclature "Criminal Writ Petition" is merely a matter of Registry classification or whether such classification reflects the substantive character of a proceeding arising from criminal jurisdiction?

21. The power to issue a writ arises from Article 226. Though the 'civil proceedings' finds place in Article 133 of the Constitution of India and the 'criminal proceedings' finds place in Article 134 of the Constitution of India. The Constitution does not create separate constitutional powers called "civil writ jurisdiction" and "criminal writ jurisdiction". Nevertheless, the High Court may distribute its judicial business between different Benches according to the nature of the proceedings, subject matter and applicable roster. The nomenclature "Criminal Writ Petition"

cannot be regarded as a mere administrative label devoid of legal significance. Where a writ petition arises out of criminal proceedings and seeks relief affecting their initiation, investigation, continuation or consequences, its classification must have due regard to the substantive nature of the controversy, the relief sought and the applicable High Court Rules. At the same time, the nomenclature does not independently confer or determine the constitutional jurisdiction of the Court. Consequently, the nomenclature has two dimensions:

21.1 **Formal dimension:** The case title, registration code and numbering system are administrative matters governed by the High Court's Rules and valid directions.

21.2 **Substantive dimension:** The nature of the proceedings may determine which Bench is competent under the notified roster to hear the petition.

22. Although Rule 315(1)(h) of the Rajasthan High Court Rules uses the expression criminal miscellaneous case, rather than expressly prescribing the title Criminal Writ Petition, it provides a substantial textual basis for the proposition that criminal-matter writ applications are contemplated within the criminal-side procedural framework. The precise nomenclature to be used by the Registry must be determined by construing the Rule as a whole and reconciling it with the applicable judicial directions.

23. In the matter of **Ambalal Parihar v. State of Rajasthan**[6], the Supreme Court emphasised that a petition arising from criminal proceedings could not be treated as a civil writ petition

6 . Criminal Appeal No. 3233/2023; 2023 INSC 943

merely to secure hearing before a Bench not assigned criminal-writ matters. The Court directed that the petition be converted and placed before the appropriate roster Bench.

24. The Kerala High Court, in the matter of **N. Prakash v. Manoj Kumar**[7], decided 30.01.2025, likewise examined the substance of the dispute and the consequences of the proceedings when considering whether the petition was criminal or civil. On the other hand, **Jiya** (supra) held that the Constitution does not provide for a separate category called a "Criminal Writ Petition" and directed the Registry not to use that nomenclature. These positions can potentially be reconciled by distinguishing the constitutional source of jurisdiction from administrative classification. A proceeding may remain an Article 226 writ petition in constitutional terms while being assigned to a criminal roster under the applicable rules.

25. The nomenclature is, in form, a matter of Registry classification; however, the classification cannot always be dismissed as a purely clerical or statistical exercise. Where the classification determines placement before a particular roster Bench, it has substantive consequences for the orderly administration of justice. The classification should therefore reflect the true nature of the dispute and the applicable roster, without suggesting that the Constitution itself creates an independent jurisdiction called "Criminal Writ Petition".

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7 . W.A. No. 1803/2024

Answer to question No.(iii)

26. The third issue before us is whether Rule 315(1)(h) of the Rules of the High Court of Judicature for Rajasthan, 1952, which expressly contemplates registration of an application for issuance of a writ under Article 226 "in a criminal matter", can be rendered inoperative or ignored by a judicial direction without holding the Rule to be ultra vires or unconstitutional?

27. Rule 315(1)(h) of the Rajasthan High Court Rules is an express procedural provision. It provides for registration and numbering as criminal miscellaneous cases of applications seeking a writ under Article 226 in a criminal matter. The Rule was framed under the High Court's rule-making authority, including and in consonance with the provisions of Article 225 of the Constitution and the relevant enabling provisions. It must be read as part of the procedural framework governing the Court. It can be deduced that three principles are material. First, a rule cannot simply be disregarded while it remains operative. A judicial interpretation may determine the scope of a rule, reconcile it with another provision or identify a valid exception. But if a provision is held to be invalid, that conclusion must rest on an appropriate legal basis; second, there is a presumption in favour of harmonious construction. Where a rule and a judicial direction can reasonably be read together, the Court should endeavour to give effect to both rather than assume that one nullifies the other; and third, the Chief Justice's authority over roster allocation is distinct from the High Court's rule-making authority. In the ratio encapsulated

in **State of Rajasthan v. Prakash Chand**[8] the Hon'ble Supreme Court affirmed that the Chief Justice is the master of the roster and that Judges must exercise judicial business in accordance with the allocation made by the Chief Justice.

28. That principle supports proper allocation of cases; it does not mean that a roster direction automatically repeals or invalidates a procedural rule.

29. If the direction issued in **Jiya** (supra) is interpreted to require every writ petition involving a criminal matter to be registered as a civil writ petition and thereby to displace the classification expressly contemplated by Rule 315(1)(h) of the Rajasthan High Court Rules, a more substantial question of reconciliation arises. Thus, it should not be assumed unless it follows from the actual operative directions and their proper construction.

30. Therefore, Rule 315(1)(h) of the Rajasthan High Court Rules cannot be treated as having ceased to operate merely because a judicial direction has changed or restricted a case nomenclature. The Rule must either be given effect through a harmonious interpretation of the relevant directions or be addressed through a legally sustainable determination concerning its scope or validity. There is no automatic requirement to declare the Rule unconstitutional merely to resolve a nomenclature dispute. Equally, a judicial direction should not be construed as silently repealing an operative rule.

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8 . (1998) 1 SCC 1

Answer to question No.(iv)

31. The next issue before us is, whether the order dated 7th July, 2026 passed by the Division Bench in the matter of **Jiya** (supra) to the extent that it directs that no petition be registered as a "Criminal Writ Petition" and that a writ petition relating to a criminal matter can only be registered as a "Civil Writ Petition", is reconcilable with Rule 315(1)(h) of the Rajasthan High Court Rules?

32. The relevant directions issued in the matter of **Jiya** (supra) are that the Constitution does not provide a separate category called a "Criminal Writ Petition". A writ petition may raise issues relating to a criminal matter but should not be treated as a "Criminal Writ Petition"; and therefore the Registry should not register any case under that nomenclature.

33. The fact remains is that Rule 315(1)(h) of the Rajasthan High Court Rules, being an express provision of the Rajasthan High Court Rules, cannot be rendered nugatory by a direction concerning nomenclature or registration without a proper construction of the Rule and the legal basis for doing so. The Rule expressly contemplates an application under Article 226 of the Constitution "in a criminal matter" and provides for its registration and numbering as a criminal miscellaneous case. It therefore recognises that a writ application may arise in a criminal matter and prescribes a corresponding procedural classification.

34. The fact that Article 226 does not separately enumerate a constitutional remedy bearing the title "Criminal Writ Petition" does not, by itself, invalidate that procedural classification. Article

226 confers the constitutional jurisdiction; the High Court Rules regulate the manner in which proceedings within that jurisdiction are instituted, registered and processed. A procedural nomenclature does not create a new constitutional jurisdiction, but neither does the absence of that nomenclature in the constitutional text necessarily prohibit its use under valid procedural Rules.

35. The direction in **Jiya** (supra) that no petition be registered as a "Criminal Writ Petition" raises a direct question of consistency with Rule 315(1)(h) of the Rajasthan High Court Rules. The stronger interpretation in favour of maintainability is that a judicial direction concerning nomenclature ought not to be construed as extinguishing the procedural category expressly contemplated by the Rule, unless the Rule is lawfully amended, held inapplicable, or otherwise authoritatively construed to permit that result. The official text of the Rules confirms that Rule 315(1)(h) of the Rajasthan High Court Rules expressly includes writ applications under Article 226 in criminal matters.

36. Accordingly, it is noted that Rule 315(1)(h) of the Rajasthan High Court Rules should be given effect, and a criminal-matter writ petition should be maintainable and registered in accordance with the criminal-side procedure prescribed by that Rule. The precise title "Criminal Writ Petition" should follow the applicable Rules and valid Registry practice; the Rule's express text supports criminal-side registration, although it describes the resulting registration as a "criminal miscellaneous case".

37. Thus, the direction in **Jiya** (supra) to the extent that it excludes criminal-side registration contrary to Rule 315(1)(h) of the Rajasthan High Court Rules is *per incuriam*, having failed to give due effect to the express statutory provision. The preamble of law laid down by their Lordships of Supreme Court in the matter of **State of U.P. v. Synthetics and Chemicals Ltd**.[9], recognises that a decision rendered in ignorance of a statute or binding authority may attract the doctrine of per incuriam. Accordingly, to that extent, the ratio in **Jiya** (supra) cannot prevail over the express mandate of Rule 315(1)(h), and criminal writ petitions shall be registered and processed in accordance with the said Rule and impugned direction in **Jiya** (supra) is held to be *per incuriam*.

Answer to question No.(v)

38. The last issue before us is, whether, in the event of an irreconcilable conflict being found between the order dated 7 July 2026 in Jiya and Rule 315(1)(h) of the the Rajasthan High Court Rules, reconsideration by a Larger Bench is required to avoid inconsistency with the Rule?

39. Having regard to the questions arising for consideration, this Court is of the considered view that authoritative interpretation by a Larger Bench was necessary. The directions issued by the Division Bench in **Jiya** (supra)**,** dated 07.07.2026, have given rise to an apparent inconsistency with the express language of Rule 315(1)(h) of the Rajasthan High Court Rules, which specifically contemplates applications under Article 226 of the Constitution in

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criminal matters and provides for their registration and numbering as criminal miscellaneous cases.

40. The aforesaid directions have also occasioned uncertainty regarding the appropriate classification, registration and listing of such proceedings, thereby creating practical difficulties and confusion amongst members of the Bar as well as the Registry. The issue assumes further significance in view of the established practice of entertaining criminal writ petitions before this Court over the years and the procedural practice followed by other High Courts in entertaining writ petitions arising out of criminal matters, *inter alia* :

(a) Delhi High Court : W.P. (Crl.)

(b) Kerela High Court : W.P. (Crl.)

(c) Bombay High Court : Criminal Writ Petition

(d) Jharkhand High Court : Cr. WJC

(e) Patna High Court : Cr. WJC

41. Judicial consistency, certainty in procedure and uniformity in the administration of justice demand that an express provision of the High Court Rules and a judicial direction apparently operating in different directions be harmoniously construed. The continued existence of uncertainty in the registration and allocation of such petitions may result in avoidable procedural objections, inconsistent treatment of litigants and uncertainty in the placement of matters before the appropriate Bench.

42. It is a settled principle that judicial discipline requires consistency in the interpretation and application of procedural Rules, while an apparent conflict between a judicial direction and

an express statutory or procedural provision warrants careful and authoritative examination. The question is not merely one of nomenclature, but concerns the interpretation and operational effect of Rule 315(1)(h), the procedural classification of writ petitions arising from criminal matters, and the consequent allocation of such proceedings to the appropriate roster.

Our answer to the Reference:

43. Our answer to the referred questions is as under:

(i) That the petition under Article 226 of the Constitution of India concerning criminal matter or proceeding is separately registered as S.B. Criminal Writ Petition for the purposes of registration, classification and shall be placed before the appropriate Bench in accordance with Rule 315(h) of the Rajasthan High Court Rules.

44. In view of the foregoing discussion and the ratio encapsulated in **Ram Kishan Fauji (Supra), Nagpur Cable Operators' Association** (supra) and **N. Prakash v. Manoj Kumar and Ors.** (supra), we are of the considered opinion that the interpretation adopted in **Jiya & Others v. Government of Rajasthan & Others** (supra), to the extent that it prohibits the registration of writ petitions arising out of criminal matters as 'Criminal Writ Petitions', is *per incuriam* and fails to give due effect to the express provisions of Rule 315(1)(h) of the Rajasthan High Court Rules. The said Rule specifically contemplates applications under Article 226 of the Constitution in criminal matters and provides for their registration and numbering as criminal miscellaneous cases. The statutory prescription cannot be

rendered otiose by an interpretation that disregards its express language and intended procedural operation.

45. Thus, to the extent that the aforesaid decision in **Jiya** (supra) failed to consider or give effect to the statutory mandate embodied in Rule 315(1)(h) of the Rajasthan High Court Rules, its ratio, insofar as it prohibits criminal-side registration of such writ applications, is held to be *per incuriam*, having been rendered in ignorance of, or without due consideration of, a relevant statutory provision. It is a settled proposition that *actus curiae neminem gravabit,* an act of the Court shall prejudice no person, and that procedural classification must facilitate, rather than obstruct, the lawful exercise of jurisdiction. The classification of a petition as a 'Criminal Writ Petition' does not create an independent constitutional jurisdiction; it identifies the procedural character of a writ proceeding arising from a criminal matter and must be understood in conjunction with the constitutional jurisdiction under Article 226 and the applicable High Court Rules.

46. Upon examination of the decision in **Jiya & Others (supra)**, we are of the considered view that the direction therein, insofar as it prescribes the registration of writ petitions arising out of criminal matters as Criminal Writ Petitions, is in the nature of an opinion-based direction, rather than a proposition of law founded upon a comprehensive consideration of the governing statutory framework. The said direction, having failed to duly consider the express mandate of Rule 315(1)(h) of the Rajasthan High Court Rules, and its interplay with the constitutional jurisdiction under Article 226, cannot be permitted to eclipse the

statutory scheme. The Hon'ble Supreme Court has time and again held that a decision rendered in ignorance of the terms of a statute or a rule having the force of law may be treated as *per incuriam,* while in State of U.P. v. Synthetics and Chemicals Ltd.[10], the Court explained the doctrine as *per ignoratium*. Applying the aforesaid principles, the ratio in **Jiya** (supra), to the extent that it disregards the statutory prescription under Rule 315(1)(h), is per incuriam and cannot be treated as laying down a binding proposition contrary to the express Rules of this Court. The statutory and long standing mandate/classification, where the Registry has been registering criminal-matter writ petitions must prevail, and criminal-matter writ petitions shall, therefore, be entertained and registered in accordance with Rule 315(1)(h) and the applicable Rules of this Court.

47. Accordingly, we hold that the direction issued in the matter of **Jiya** (supra), to the extent indicated hereinabove, cannot be approved insofar as it directs that writ applications concerning criminal matters shall not be registered and processed under the criminal-side procedural framework contemplated by Rule 315(1)(h). Writ petitions arising out of criminal matters are maintainable under Article 226 of the Constitution and shall be registered and processed in accordance with Rule 315(1)(h) and the other applicable Rules of this Court.

DIRECTIONS:

48. In view of the observations noted ad supra, we hereby give the following directions:

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48.1. The declaration of law made herein shall operate **prospectively** from the date of pronouncement of this judgment. All judgments, final orders and proceedings already concluded prior to the date of this judgment shall remain undisturbed and shall not be reopened or rendered invalid merely by reason of the present determination.

48.2. The Registry of this Court is directed to entertain, register and process writ petitions arising out of criminal matters under the nomenclature of "Criminal Writ Petition", in accordance with Rule 315(1)(h) of the Rules of the Rajasthan High Court Rules, and the other applicable Rules and long standing practice of the Court.

48.3. In respect to the criminal writ petitions concerning criminal matters that are **pending as on the date of this judgment** but have been registered under a different nomenclature, the Registry shall re-register the same as "Criminal Writ Petition" and shall place the writ petition before the appropriate Bench having the roster. Such a re-registration and re-classification will be done within a period of two weeks from today and it will be done expeditiously so that it may not affect the hearing of those writ petitions.

48.4. All writ petitions instituted after the pronouncement of this judgment, which arise out of criminal matters and fall within the ambit of Rule 315(1)(h), shall be categorised and registered as "Criminal Writ Petitions" and placed before the appropriate Bench in accordance with the roster and applicable Rules of this Court.

48.5. The Registrar (Judicial) shall issue the necessary administrative instructions to ensure uniform implementation of these directions and to obviate any ambiguity in the registration, classification and listing of criminal writ proceedings.

49. It is clarified that the prospective operation of this judgment is intended to preserve the finality of matters already adjudicated, while ensuring consistent and uniform application of the law declared herein to proceedings instituted hereafter and pending matters dealt with in accordance with the foregoing directions.

50. The reference is answered accordingly.

51. We place on record our appreciation for the assistance rendered by Mr. Rajendra Prasad, learned Advocate General assisted by Mr. Sheetanshu Sharma & Ms. Dhriti Laddha, Mr. Rajesh Choudhary, GA cum AAG, Mr. Nitin Jain, Ms. Kriti Kalawatia, Mr. Vaibhav Pareek, Mr. Rajeev Bhushan Bansal, Ms. Ritu Bansal, Mr. Rahul Kumar, Mr. Vaibhav Nirmal, Mr. Shubham Rohila, Mr. Vedant Agarwal, Mr. Swapnil Upman, Mr. Naman Maheshwari, Mr. Vishwas Fatehpuria, Mr. Parmeshwar Lal Pilania, Mr. Avi Airun, Mr. Rajesh Kala, Mr. Jitendra Mitruka, Mr. Aniroodh Mathur, Mr. Krishnveer Singh, Mr. Naman Yadav, Mr. Punit Singhvi, Mr. Kapil Gupta, Mr. Chitransh Sharma, Mr. Tanay Choudhary, learned Members of Rajasthan High Court Bar Association, Jaipur Bench and Mr. Rajesh Joshi, Sr. Adv., Mr. Vikas Balia, Sr. Adv. With Ms. Sheetal Kumbhat, Mr. Dilip Singh Udawat, Mr. Arun Kumar Jhajhariya, Mr. Harshit Bhurani, Mr. Raunak Singhvi, Mr. Anshuman Singh Champawat, Ms. Kamini Joshi, Mr. Aniruddh Kothari, Mr. Maheshwar Singh Bhati, Mr. Yash Tripathi, Mr. Shivam Harsh, Mr.

Moti Singh, Mr. Sumit Singhal, Dr. RDSS Kharlia, Mr. Chandan Singh Jodha, Mr. Pradeep Rajpurohit, Mr. Kailash Sharma, Mr. Siddharth Tanwar, Mr. Dungar Dan Charan, Mr. Bharat Gurjar, learned Members of the Rajasthan High Court Bar Association, Jodhpur, who appeared and made submissions in arriving at the aforesaid conclusion.

(ANUROOP SINGHI),J (SAMEER JAIN),J (SANJAY K. AGRAWAL),CJ

N.GANDHI/RESERVED