
(2004) 03 MP CK 0084

In the Madhya Pradesh High Court

Case No : Miscellaneous Cr. Case No. 804 of 2004

Aasit @ Gudda

APPELLANT

Vs

State of M.P. and Others

RESPONDENT

Date of Decision : 18-03-2004

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Madhya Pradesh Rajya Suraksha Adhiniyam, 1990 — Section 14
Public Gambling Act, 1867 — Section 4A

Citation : (2005) 1 MPHT 166

Hon'ble Judges : A.K. Awasthy, J

Bench : Single Bench

Advocate : V.P. Saraf, for the Appellant; P. Newalkar, Dy. Govt. Advocate, for the Respondent

Final Decision : Dismissed

Judgement

A.K. Awasthy, J.—Applicant has filed the petition u/s 482 of the Cr.PC for the quashment of the First Information Report against him in Crime No. 55/2004 for offence punishable u/s 4A of the Gambling Act and also in Crime No. 56/2004 registered for the offence u/s 14 of M.P. Rajya Suraksha Adhiniyam, 1990 by Police Station, Shajapur.

2. The admitted facts of the case are that the Collector, Shajapur in Case No. 64/ Misc. CRI/2001 issued a show-cause notice to the applicant u/s 6-C of M.P. Rajya Suraksha Adhiniyam, 1990 in which it was alleged that as the applicant is involved in various criminal cases, the order of externment of applicant from District Shajapur be passed and thereafter the Collector, Shajapur vide order dated 6-11-2003 passed the order against the applicant that he should not enter into District Shajapur, Dewas and Ujjain for the period of one year. It is also not in dispute that the criminal case in Crime No. 55/2004 is registered against the applicant u/s 4A of Public Gambling Act on 23-1-2004. That the Police Shajapur has registered another case vide Crime No. 56/2004 against the applicant. That

on 23-1-2004 the applicant was at Shajapur in contravention of the order of the Collector dated 6-11-2003.

3. The applicant has prayed that the First Information Report in Crime No. 55/2004 and Crime No. 56/2004 are lodged on false and baseless grounds because on 23-1-2004 the applicant was not present at Shajapur but he was in the office of the Secretary of the State of M.P., Bhopal in connection with his appeal u/s 9 of M.P. Rajya Suraksha Adhiniyam against the order of the Collector dated 6-11-2003.

4. From the case diary of Crime No. 55/2004, it is clear, that the applicant on the night of 23-1-2004 was at Shajapur and he was indulging in the offence of Satta. The statements of the witnesses are also in the diary against the applicant. Consequently, there is prima facie evidence against the applicant in the case diary that he is involved in the offence punishable u/s 4A of Public Gambling Act and also contravened the externment order issued by the Collector which is punishable u/s 14 of M.P. Rajya Suraksha Adhiniyam. The case of the petitioner that it was not possible to remain present at Shajapur is a matter of defence which will be looked into by the Court concerned. The appraisal of such defence of applicant is not done in petition u/s 482, Cr.PC.

5. The inherent powers u/s 482 of the Cr.PC are exercised in rarest of the rare case sparingly and the First Information Report is quashed only when virtually no case is made out against the petitioner.

6. It is laid down in case of J.P. Sharma Vs. Vinod Kumar Jain and Others, and State of Orissa Vs. Bansidhar Singh, , it is held that where the prima facie case is made out against the petitioner, the Court u/s 482, Cr.PC is not concerned with the truth of allegation which will be decided in the investigation or by Court.

7. The petition is devoid of merits and it is, hereby, dismissed.