

(2012) 10 MP CK 0121
In the Madhya Pradesh High Court
Case No : M. Cr. C. No. 7129 of 2012

Amarjeet Singh Oberoi

APPELLANT

Vs

The State of Madhya Pradesh

RESPONDENT

Date of Decision : 03-10-2012

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 397, 482
Penal Code, 1860 (IPC) — Section 409

Citation : (2012) 10 MP CK 0121

Hon'ble Judges : U.C. Maheshwari, J

Bench : Single Bench

Advocate : R.S. Raghuvanshi, for the Appellant; Mamta Shandilya, Learned Panel Lawyer for the State, for the Respondent

Final Decision : Dismissed

Judgement

U.C. Maheshwari, Judge

1. The applicant-accused has filed this petition u/s 482 of the Cr. P.C. for quashment of the FIR dt. 19.5.1996 registered as Crime No. 166/1996 at Police Station Pithampur Dhar, against him accompanied with some co-accused for the offence of Section 409 of the IPC. Pursuant to it, the prayer for quashment of the charge sheet submitted against the applicant after holding the investigation on the basis of such FIR is also made. In such premises, the prayer for quashment of the Criminal Case No. 32/2007 pending in the Court of Judicial Magistrate First Class Dhar, along with the order dt. 2.7.2012 passed by First Additional Sessions Judge Dhar, in Criminal Revision No. 129/2012 is also made. After taking me through the papers placed on the record along with the aforesaid FIR Annexure A/8 and the order of the First Additional Sessions Judge Dhar, passed in Criminal Revision No. 129/2012 Annexure A/14 applicant counsel said that the applicant, while he was in service, was directed by the Senior Officials to go to Ghatta Billod to take the delivery of alleged steel and manage the affairs to send the same at the destination where the same is to be utilised by the Department. In

continuation, he said that except taking the delivery of the alleged steel there was no any other duty was assigned on the applicant and, therefore, after loading the same in a truck for transportation for the destination, the applicant could not be held to be responsible if such goods have been misplaced or some breach of trust was committed by the transporter and in such premises, the impugned FIR and pursuant to it the entire investigation as well as the criminal case deserves to be quashed.

2. In continuation he said that after filing the charge sheet on earlier occasion the applicant came to this Court with the petition u/s 482 Cr. P.C. but till the hearing of such petition, the charges were framed by the Trial Court against the applicant on which this Court had dismissed the petition by extending a liberty to file the revision against the order of the Trial Court framing the charge of the aforesaid offence against the applicant.

3. Pursuant to such liberty, the applicant had challenged such order of the Trial Court before the Court of Session u/s 397 of the Cr. P.C. and raised all the question which have been raised in the present petition, but on consideration contrary to the record and the existing legal position by affirming the order of the Trial Court framing the charges, the revision was dismissed by the Session Court vide Annexure A/14.

4. In continuation by referring to para 10 and 12 of the aforesaid order of the Session Court Annexure A/14, he argued that as per findings of the Session Court, he is being prosecuted in the matter only on some suspicion and in such premises, it can be assumed there is no direct evidence against the applicant. He repeatedly said that the Revisional Court has stated that possibility of misappropriation of the property by the applicant could not be ruled out and pursuant to it, he argued that in view of such finding, a person like applicant could not be prosecuted further and the impugned FIR and the entire proceedings based on it deserves to be quashed and prayed for admission and allowing this petition.

5. Having heard Counsel at length after perusing the papers placed on the record along with the FIR as well as the other papers of the charge sheet so also the aforesaid order of the Session Court, I found prima facie ingredients of the alleged offence of misappropriation of the public property by the applicant. I have also gone through the entire order of the Sessions Court Annexure A/14 affirming the order the Trial Court framing the charge against the applicant for the offence of Section 409 of the IPC. I have not found any perversity, illegality, infirmity or anything against the propriety of the law in the same. Pursuant to it, the FIR or the charge sheet and the aforesaid order of the Courts below do not require any interference at this stage. So in such premises, this petition deserves to be dismissed.

6. Apart the above, it is a settled proposition of law that the person who has already exhausted the remedy of the revision against the order of the Trial Court

cannot be permitted to file the second revision under the garb of Section 482 of the Cr. P.C. So in view of such technical ground also, this petition could not be entertained.

7. In view of the aforesaid the impugned petition being devoid of any merits is, hereby, dismissed at initial stage of motion hearing.

8. Pursuant to it IA 6208/2012 an application for grant of stay against the further proceedings of the Trial Court is also dismissed. Certified copy as per rules.