

(2023) 10 MP CK 0087

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No. 47579 Of 2023

Bhero Lal Sahu

APPELLANT

Vs

State Of Madhya Pradesh And Others

RESPONDENT

Date of Decision : 19-10-2023

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 156(3), 173, 482

Citation : (2023) 10 MP CK 0087

Hon'ble Judges : Milind Ramesh Phadke, J

Bench : Single Bench

Advocate : Anuj M. Gupta, Kaushlendra Singh Tomar

Final Decision : Dismissed

Judgement

Milind Ramesh Phadke, J

1. The present petition under Section 482 of Cr.P.C has been preferred seeking the following reliefs:

It is therefore humbly prayed that this Hon'ble Court may kindly pleased to allow this application and directing the respondent police authorities to file the charge-sheet before the court below and directing the police authority to arrest the accused person forthwith, in the interest of justice.

2. At the outset learned Government Advocate submits that the relief which has been sought by the petitioner is not maintainable in the light of the judgment rendered by the Hon'ble Apex Court in the case of Aleque

Padamsee and others Vs. Union of India and others, (2007) 6 SCC 171, Sakiri Vasu Vs. State of U.P., 2008 AIR SCW 309 and Shweta Bhadauria Vs. State of M.P. And others, 2017 (1) MPJR 247 and the proper remedy available to the petitioner is to approach the competent Court of criminal jurisdiction under the provisions of section 156 (3) of Cr.P.C., and therefore, the present petition under Section 482 of Cr.P.C is not maintainable.

3. Counter to the submission made by the learned Government Advocate, learned counsel for the petitioner submits that though as per the directions of the Hon'ble Apex Court the remedy available to the petitioner is before competent Court of Criminal Jurisdiction, but as per the provisions contained under section 173 of Cr.P.C this Court can direct the police officials to complete the investigation as early as possible, and therefore, status report with regard to investigation done by the police officers be called for and they may further be directed to carry out the investigation properly.

4. After hearing the rival contentions, this Court finds that the issue with regard to directing the police officials to conduct proper investigation and to make arrest of the accused persons and file challan before the competent court of jurisdiction is no more res integra, in the judgments cited by the learned counsel for the respondent/State the issue is very well settled that such type of direction can only be given by the Judicial Magistrate of competent criminal jurisdiction under the provisions of section 156 (3) of Cr.P.C.

5. In the light of the aforesaid, this petition being devoid of any substance is hereby dismissed. The petitioner is at a liberty to approach the concerned Judicial Magistrate for redressal of his grievance and the concerned Court shall hear the matter expeditiously as possible and decide the application in accordance with law.