

(2018) 05 MP CK 0007
In the Madhya Pradesh High Court
Case No : M. Cr. C. No.15112 OF 2018

Deepak Jaiswal

APPELLANT

Vs

State Of M. P

RESPONDENT

Date of Decision : 01-05-2018

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 482

Citation : (2018) 05 MP CK 0007

Hon'ble Judges : S. C. SHARMA, J

Bench : Single Bench

Advocate : Anil Ojha, Kamal Kumar Tiwari

Final Decision : Dismissed

Judgement

The petitioner before this Court has filed present petition under Section 482 of the Code of Criminal Procedure, 1973 for quashment of FIR.

The facts of the case reveal that petitioner was a licensee having licence in respect of liquor shop and an agreement was executed with a person who

was not authorized to run the liquor shop and by doing interpolation in government Challans, the State exchequers has been subjected to loss to the tune of Rs.2,63,00,000/- in respect of the shop which was allotted to the petitioner.

Learned counsel for the petitioner has argued before this Court that a No Dues Certificate was issued by the Excise Department and therefore, as

cheating and forgery has not been done by the present petitioner the FIR itself deserves to be quashed.

The FIR lodged in the matter reads as under:-

****eSa jktho izlkn f}osnh firk Jh Jhdkar nqcs mez 50 lky lgk;d ftyk vkcdkjv vf/ kdkjh ftyk bankSj ds in ij inLFk gwW vkcdkjv foHkkx ds lgk;d vk;qDr**

vkcdkjh ,oa vU; vf/kdkfj;ksa us yk;lsافل;ksa }kjk izLrqr VĀ^{at}jh ds pkyuksa esa gsjQsj dh 'kadm ds vk/kkj ij izkfafHkd tkWp esa izFke n""V;k pkyuksa

dks voyksdu djus ij ik;k fd fuEufyf[kr O;fDr;ks 1 Jh vfouk'k flag e.MyksbZ 'kjk Bdsdnkj Ā¼,e th jksM lewgĀ½ 2 Jh fot; JhokLro 'kjk Bdsdnkj Ā¼,e

th jksM lewgĀ½] 3 jkds'k t;loky 'kjk Bds snkj Ā¼th ih vks pkSjkgk lewgĀ½] 4 Jh ;ksxsUnz t;loky 'kjk Bdsdnkj Ā¼rksi[kkuk lewgĀ½] 5 Jh jkgwy

pkSdls 'kjk Bdsdnkj Ā¼nsoxqjkm;k ck;ikl pkSjkgk lewgĀ½] 6 Jh lw;Zizdk'k vjksjk firk Jh xq: pju vjksjk Mk;jsDVj esllZ fefy;u VsĀ^aM'kZ Hkksiky

izk- fy- 'kjk Bdsdnkj Ā¼xoyh iykfl;k lewgĀ½] 7 Jh xksiky f'kogjs Mk;jsDVj esllZ Hkkjrh; nso fcYM izk-fy- 'kjk Bdsdnkj Ā¼LVs'ku jksM egw

lewgĀ½] 8 Jh yodw'k ikaMs 'kjk Bdsdnkj Ā¼dkadfj;k lewgĀ½] 9Jh iznhi t;loky 'kjk Bdsdnkj Ā¼MĀ^aheyS.M pkSjkgk lewgĀ½] 10Jh ftrsUnz

f'kojkes 'kjk Bds snkj Ā¼pksjy lewgĀ½] 11 Jh v'kizhr flag yqckuk 'kjk Bds snkj Ā¼xoyh iykfl;k lewgĀ½] 12Jh nhid t;loky 'kjk Bdsdnkj Ā¼lkaosj

lewgĀ½] 13 jktw n'koar] 14va'k f=osnh firk Lo vfuy f=osnh }kjk nLrkostksa dh dwVjpuk dj pkyuksa dh jkf'k dh ek=k cdwVjpuk ds ek;/e ls ,u vks lh izkIr dj efnjk dk iznk; fy;kA mDr ?kVukdze ds laca/k esa Jheku dysDVj Ā¼vkcdkjhĀ½ ftyk bankSj } kjk ,d fyf[kr

vkosnu i= dzekad@vkc-@Bsdk@2017@6701 bankSj fnukad 08@08@17 esa mDr vukosnd 'kjk yk;lsافل;ksa o muds lg;ksfx;ksa ds fo:) ,Q vkbZ vkj

ntZ dj fu;ekuqlkj dk;Zokgh djus dk ys[k fd;k gS tks esjs }kjk Fkkuk jkothcktkj bankSj ds le{k mfpr dk;kZokgh gsrq izLrqr fd;k x;kA mDr vkosnu i=

dzekad@vkc-@Bsdk@2017@6701 bankSj fnukad 08@08@17 dk voyksdu djrs izFku n""V;k /kkjk 420] 467] 468] 471] 406] 34 Hkknfo dk vij/k ?kfVr

gksuk ik;k tkus ij vkjksih 1 Jh vfouk'k flag e.MyksbZ 'kjk BdsdnkjĀ Ā¼,e th jksM lewgĀ½ 2 Jh fot; JhokLro 'kjk Bds snkj Ā¼,e th jksM lewgĀ½]

3 jkds'k t;loky 'kjk Bdsdnkj Ā¼th ih vks pkSjkgk lewgĀ½] 4 Jh ;ksxsUnz t;loky 'kjk Bdsdnkj Ā¼rksi[kkuk lewgĀ½] 5 Jh jkgwy pkSdls 'kjk Bdsdnkj

Ā¼nsoxqjkm;k ck;ikl pkSjkgk lewgĀ½] 6 Jh lw;Zizdk'k vjksjk firk Jh xq: pju vjksjk Mk;jsDVj esllZ fefy;u VsĀ^aM'kZ Hkksiky izk- fy- 'kjk Bdsdnkj

Ā¼xoyh iykfl;k lewgĀ½] 7 Jh xksiky f'kogjs Mk;jsDVj esllZ Hkkjrh; nso fcYM izk-fy- 'kjk Bdsdnkj Ā¼LVs'ku jksM egw lewgĀ½] 8 Jh yodw'k

ikaMs 'kjk Bdsdnkj Ā¼dkadfj;k lewgĀ½] 9Jh iznhi t;loky 'kjk Bdsdnkj Ā¼MĀ^aheyS.M pkSjkgk lewgĀ½] 10Jh ftrsUnz f'kojkes 'kjk

Bdsdnkj Ā¼pksjy lewgĀ½] 11 Jh v'kizhr flag yqckuk 'kjk Bdsdnkj Ā¼xoyh iykfl;k lewgĀ½] 12Jh nhid t;loky 'kjk Bdsdnkj Ā¼lkaosj lewgĀ½] 13

jktw n'koar] 14va'k f=osnh firk Lo- vfuy f=osnh ds fo:) vijk/k iathc) dj foospuk
esa fy;k x;kA Jheku dysDVj Â¼vkcdkjhÂ½ egksn; dk vkns'k gLotSj

gSA**

There are specific allegation against the present applicant.

Not only this, in respect of shop in question, the licence was granted under the Excise Act in favour of the petitioner and the total amount of cheating

and forgery which has taken place in respect of the shop is Rs.2,63,00,000/-.

From bare perusal of the contents of the FIR, it can never be said that no case is made out against the present applicant. The apex Court in the case

of State of Haryana Vs. Bhajanlal reported in 1992 CrilJ 527 in paragraph No.108 has held as under:-

â??108. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law

enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under

Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein

such power could be exercised either to prevent abuse of the process of any Court or otherwise to secure the ends of justice, though it may not be

possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formula and to given an exhaustive list of

myriad kinds of cases wherein such power should be exercised.

1. Where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety

do not prima facie constitute any offence or make out a case against the accused.

2. Where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence,

justifying an investigation by police officers under Section 156 (1) of the Code except under an order of a Magistrate within the purview of Section

155(2) of the Code.

3. Where, the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the

commission of any offence and make out a case against the accused.

4. Where, the allegations in the F.I.R. do not constitute a cognizable offence but

constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

5. Where, the allegations made in the F.I.R. or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

6. Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

7. Where a criminal proceeding is manifestly attended with malafide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.â??

In light of the aforesaid, this Court does not find any reason to quash the FIR. Not only this, a charge sheet has been filed in the matter and the trial

Court shall certainly be free to proceed ahead in the matter in accordance with law.

With the aforesaid, petition stands dismissed.

Certified copy as per rules.