
(2018) 08 MP CK 0085

In the Madhya Pradesh High Court

Case No : Criminal Miscellaneousellaneous Case No.22382 Of2016

Dharmendra Singh Thakur

APPELLANT

Vs

State Of Madhya Pradesh

RESPONDENT

Date of Decision : 09-08-2018

Acts Referred:

Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 — Section 3(1)(p), 3(1)(u), 3(1)(y), 3(1)(z), 3(1)(vi), 3(1)(v)

Citation : (2018) 08 MP CK 0085

Hon'ble Judges : Sushil Kumar Palo, J

Bench : Single Bench

Final Decision : Allowed

Judgement

On behalf of the petitioner, this application under Section 482 of Cr.P.C. has been filed to invoke the inherent jurisdiction of this Court to quash FIR at

Crime No.244/2016, registered at Police Station Cantt. Sagar for offence under Sections 406 and 420 of IPC read with Sections 3(1) (p), (u), (y), (z)

& (v), 3(1)(vi) and 3(1)(v) of Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for brevity ""Act 1989"")) against the

petitioner-Dharmendra Singh Thakur.

The prosecution case in brief is that the complainant/respondent No.2 was the Sarpanch of Village Semra Hat. Petitioner Dharmendra Singh Thakur

was Rojgar Sahayak in the Gram Panchayat Semra Hat and co-accused Dheeraj Gaur was the Secretary of the Gram Panchayat. Allegedly, the

Secretary and Rojgar Sahayak in conspiracy locked the computer and the software ""panchayat darpan"". On 25.01.2016, this computer was locked by

Dharmendra. Thereby the petitioner obstructed the public work, because of which the works of panchayat could not be executed.

The panchayat by a proposal cancelled the contract appointment of the petitioner Dharmendra Singh Thakur and sent report to the District Panchayat

and Janpad Panchayat, Rahatgarh. The Secretary and the petitioner (Rojgar Sahayak) obtained a stay order from the Collector. On 26.1.2016 the

petitioner Dharmendra, against the proposal passed by Panchayat dated 16.1.2016, a representation allegedly prepared by the public, gave to Collector Sagar.

To save the petitioner-Dharmendra Dangi, the Panchayat Secretary-Dheeraj, manipulated the government records, and produced before the Collector.

Dheeraj was responsible for withdrawing 14 bills of Water Harvesting Scheme and other necessary Schemes because of which the work was

withheld on 05.04.2016. The password was locked, knowing fully well that the complainant is a member of scheduled caste conspiring with co-

accused person conspiracy changed the password. Therefore, the labour payment could not be made. Rojgar Sahayak petitioner Dharmendra Singh

and Secretary of the Panchayat Dheeraj Gaur were responsible for withholding the panchayat work. Panch of the Gram Panchayat namely Nanhe

Bhai Ahirwar, Kamlesh Kumar Ahirwar, Younis Khan and Abhay Singh Thakur are the persons who know about the incident.

On this report, Police Station Cantonment, Sagar has lodged the crime for offence as mentioned above.

On behalf of the petitioner it is claimed that the petitioner is innocent. He submitted the password by letter dated 05.04.2016 to the Secretary on

05.04.2016. Allegedly, on the report dated 03.06.2016, the complainant claims that the password was changed on 05.04.2016. In this regard reference

has been made to a report lodged by Karyakram Adhikari MGNREGA, on 20.07.2016 against the petitioner Rojgar Sahayak. This letter, Annexure P-

6, is addressed to Police Station Cantonment, Sagar, wherein the password is alleged to have been changed on 05.04.2016. On behalf of petitioner, it

is also contended that on 10.03.2016, a letter was issued by the Karyakram Adhikari, Janpad Panchayat, Rahatgarh regarding inquiry about the

petitioner. The Karyakram Adhikari vide this letter dated 10.03.2016 addressed to the Chief Executive Officer, District Panchayat, Sagar (as

Annexure P-8) that the complaint received against the petitioner Dharmendra Singh was inquired and it was found that no irregularity has been

committed by him.

It is also contended that the Collector, Sagar vide order dated 2.08.2016 allowed the appeal filed by Dharmendra Singh and passed the order that order

dated 02.08.2016 passed by the Gram Panchayat Semra Hat was set aside. The accused/petitioner was directed to take over the charge of Gram

Rojgar Sahayak immediately and his transfer dated 08.02.2016 was cancelled. It is further contended that the Panchayat Semra Hat placed an

application dated 28.03.2016 addressed to the Chief Executive Officer, Janpad Panchayat Rahatgarh. Subsequent thereto, password was provided by

the petitioner on 05.04.2016 in writing. The password was changed by the Panchayat and different work was done. But, again the password was

missing. Therefore, the work was withheld. This is evident from letter issued by Karyakram Adhikari, MGNREGA Scheme, Janpad Panchayat

Rahatgarh addressed to SHO, Police Station Cantonment Sagar.

On behalf of the petitioner, it is further claimed that the Sarpanch though a member of scheduled caste, but, now such allegation has been leveled that

the petitioner had committed any offence under the ""Act 1989"".

On behalf of respondent No.1/State and respondent No.2/complainant, the contentions are vehemently opposed and it is stated that the petitioner

deliberately withheld the password. Therefore, humiliated and insulted the respondent No.2/complainant, who is the Sarpanch of Village Semra Hat.

It would be appropriate to mention here that the petitioner-Dharmendra Singh allegedly withheld the password withholding of password itself do not

constitute any offence under the ""Act 1989"", there is no mens rea to cause insult or humiliate the member of scheduled caste, because of her caste

and he has not used any caste name. The petitioner may be responsible for his actions and omissions for his deeds in the departmental proceedings,

but, prima facie offence under Sections 406 and 420 of IPC read with Sections 3 (1) (p), (u), (y), (z) & (v), 3(1) (vi) and 3(1)(v) of ""Act 1989"" does

not attract the present case.

The appreciation of preliminary evidence indicate that the evidence oral and documentary do not disclose prima facie case for the offences mentioned

above against the petitioner. The inherent jurisdiction under the section though wide has to be exercised sparingly, carefully when such exercise is

justified by and it can be exercised ex debito justitiae to do real and substantial

justice.

There is no criminal breach of trust. Nor there is cheating as the password was not provided earlier.

That being so, the facts float on the surface seems to be no assistance from deus ex machina is required to see that there is not even scintilla of

suspicion of criminal liability as against the petitioner. Therefore, the High Court would interfere and deem it fit to quash the FIR.

In view of aforesaid, the petition is allowed and FIR registered at Crime No.244/2016 at Police Station Cantonment Sagar for offence under Sections

406 and 420 of IPC read with Sections 3(1) (p), (u), (y), (z) & (v),, 3(1)(vi) and 3(1)(v) of the "Act 1989", so far present petitioner is concerned, is

hereby quashed.

C.C. as per rules.