
(1992) 01 MP CK 0015

In the Madhya Pradesh High Court

Case No : Miscellaneous Petition No. 2621 of 1990

Dr. Shiv Roop Sharma

APPELLANT

Vs

R.K. Shrivastava

RESPONDENT

Date of Decision : 30-01-1992

Acts Referred:

Constitution of India, 1950 — Article 345
Criminal Procedure Code, 1973 (CrPC) — Section 272
Madhya Pradesh Official Language Act, 1957 — Section 3

Citation : (1992) 1 MPJR 314 : (1992) 37 MPLJ 459 : (1992) MPLJ 459

Hon'ble Judges : V.D. Gyani, J;K.L. Issrani, J

Bench : Division Bench

Advocate : R.K. Pandey, for the Appellant; A.S. Jha, for the Respondent

Final Decision : Dismissed

Judgement

V.D. Gyani, J.

This petition is listed today in default of deposing security cost but as requested by the learned counsel for the petitioner, Shri R.K.. Pandey, it was taken up for final hearing. Shri A.S. Jha, learned Govt. Advocate also agreed, considering the short question of law involved in the petition and its nature and importance, in day to day working of the subordinate criminal Courts, in the State.

By this petition under Article 226 of the Constitution, a direction made by the Judicial Magistrate, First Class, Bilaspur, in the order dt. 20th Aug., 1990 passed in Criminal Case No. 186 of 1989 pending before him, directing the petitioner, a practising advocate, appearing for the accused in the aforesaid criminal case, to henceforth make applications in Hindi, has been faulted with on the ground that this direction contravenes Article 345 of the Constitution. In a pending criminal trial, an application was made in English, while entertaining the same, the learned Magistrate made the above direction. Read in its proper context, it must be added that it is otherwise an innocuous direction.

Now that an issue has been raised it has become necessary to clear the confusion in not controversy, as rightly suggested by the learned counsel.

Placing reliance on the following three decisions of the Court it was contended on behalf of the petitioner that trial Court's direction was wholly unwarranted. Dayabhai Poonambhai and Another Vs. Natwarlal Sombhai Talati and Others, L.M. Wakhare Vs. The State,

Shri A. S. Jha, learned Govt. Advocate on the other hand submitted that much water has flown under the bridge since the above noted judgments were delivered. Several notifications have been issued by the Govt. under S. 3 of the M. P. Official Languages Act, 1957.

Article 345 of the Constitution empowers the State Legislature, to adopt Hindi as the official language of the State, accordingly it has been adopted in the State by passing the aforesaid Act. The Govt, of Madhya Pradesh by Notification No. 45950-Fa. No. 7(A)-5-76-B-21, dt. 22-11-76 published in Gazette (Extraordinary) on 23-11-1976 and 28-3-1974 has notified that Hindi shall be the language of all subordinate Courts in the State. The High Court of Madhya Pradesh by its memo, dt. 20-1-77 has directed all its subordinate Courts, through its District and Sessions Judges, to use and enforce Hindi, in all its civil and criminal proceedings. Section 272 of the Criminal P. C. empowers the State Govt. to determine what shall be for the purposes of Code, the language of each Court within the State, other than the High Court. The notifications referred to above, clearly show the determination of the State Government that Hindi shall be the language of all Courts in the State except High Court.

Rule 8 of M. P. Civil Courts Rules, 1961 provides for Hindi written in Devnagri Script as any of the civil Courts subject to such exemptions as may be notified by the State Govt. from time to time. Similarly, Rule 3 of the Rules and Orders (Criminal) provide for the Court language in criminal Courts which should be read as per the aforesaid notification issued by the State Govt. which is Hindi throughout the subordinate Courts of the State.

Too obviously the decisions, cited by the learned counsel for the petitioner, being prior in the point of time to the notification (supra) issued by the State Government, are of hardly any avail or help to the petitioner.

In view of the foregoing discussion the direction as made by the learned Magistrate, is well supported by law. More so in face of the fact the learned Judge has entertained the application though in English dispensation of justice being the prime concern and duty of any Court, language should not come in the way of dispensation of justice. While it is true that the person seeking justice cannot be driven out of the Court on account of language. It is also equally true that an advocate, as an officer of the Court, is equally expected to honour the official language of the Court. This petition stands disposed of with no order as to costs.

Let this judgment/order be circulated amongst the subordinate Courts of the

State through District and Sessions Judges.