
(2004) 08 MP CK 0057

In the Madhya Pradesh High Court

Case No : Criminal Revision No. 142 of 2000

Girraj Singh and Others

APPELLANT

Vs

State of Madhya Pradesh

RESPONDENT

Date of Decision : 03-08-2004

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 193

Penal Code, 1860 (IPC) — Section 302, 34

Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 —
Section 3(1)

Citation : (2004) 4 MPHT 57 : (2005) 1 MPLJ 290

Hon'ble Judges : Subhash Samvatsar, J

Bench : Single Bench

Advocate : N.P. Dwivedi, for the Appellant; B.D. Mahore, Dy. Govt. Advocate, for the Respondent

Final Decision : Allowed

Judgement

Subhash Samvatsar, J.

This revision is filed by the applicants accused challenging an order dated 11-4-2000 passed by Special Judge, Guna in Case No. 39/98 S.T., whereby the Special Judge has transferred the matter to the concerned Magistrate for proceeding with the committal proceedings. Counsel for applicants submits that the said order is illegal and contrary to law.

Brief facts of the case are that a complaint was filed against the applicants accused for committing offence u/s 302/34, IPC and Section 3(1)(10) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. Said complaint was registered as Crime No. 179/98. Challan was filed by the prosecution directly before the Sessions Court, Guna and was not committed to the said Court according to the provisions of law. Apex Court in the case of Gangula Ashok and Another Vs. State of A.P., has laid down that the cognizance of offence under the Atrocities Act can not be taken by the Special Court without

being committing to that Court by the Magistrate and a complaint or charge-sheet can not be straightway filed to the Special Court.

Counsel for the applicant has also relied on the judgment of Apex Court in the case of Moly v. State of M.P. 2004(1) Sup (Cri.) 542, in which Apex Court relying the case of Gangula Ashok (supra) has taken the same view. Counsel for applicant, therefore, submits that the procedure adopted by the prosecution in filing straightway challan before the Sessions Court is illegal and in fact the prosecution be directed to file challan papers before the concerning Magistrate who in turn after following the procedure may commit the matter to the Special Judge. The direction of the Special Judge to transfer the case to the concerned Magistrate for committal proceedings is illegal and contrary to the judgment of Apex Court referred above.

After perusing the said judgment I find much force in the arguments advanced by the learned Counsel. In the result I set aside the impugned order and direct Special Judge, Guna to return the challan papers to the prosecution for submitting before the concerning Magistrate who shall after following the procedure committed the matter to the Appropriate Court.

Revision stands allowed with no orders as to costs.