
(2004) 11 MP CK 0048

In the Madhya Pradesh High Court

Case No : Criminal Revision No. 1674 of 2004

Goden Prasad and Another

APPELLANT

Vs

Manua and Another

RESPONDENT

Date of Decision : 05-11-2004

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 193, 4, 5
Penal Code, 1860 (IPC) — Section 294, 420, 500, 506B
Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 —
Section 14, 3, 4

Citation : (2004) 4 MPHT 457

Hon'ble Judges : A.K. Shrivastava, J

Bench : Single Bench

Advocate : Vijay Pandey, for the Appellant;

Judgement

A.K. Shrivastava, J.—Heard on the question of admission.

2. This revision petition has not been filed against any order but the petitioners are anticipating their arrest by Judicial Magistrate First Class, Bina in Criminal Case No. 896/2000 which is a private complaint and has been filed before it by respondent Manua purporting to be u/s 3/4 of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (in short "the Act") and also under Sections 500, 294, 506B and 420, IPC It is said that Magistrate framed charges against present petitioners under Sections 504, 506A and 500, IPC. Since the complaint has also been filed in order to attract the provisions of Sections 3 and 4 of the Act, according to learned Counsel, the learned Magistrate is going to commit the case to "Special Court" specified under the Act after taking into custody the petitioners. Hence this revision petition has been filed.

3. The contention of Shri Vijay Pandey, learned Counsel for the petitioner is that the procedure which shall be adopted by Magistrate to commit the case to "Special Court" constituted under the Act is wholly unwarranted under the law. According to the learned Counsel, indeed the complainant should have filed

private complaint directly to the "Special Court" constituted under the Act. In support of his contention, he has placed heavy reliance on Full Bench decision of this Court in the case of Anand Swaroop v. Ramratan Jatav and Ors. 1996 MPLJ 8. The learned Counsel has further placed reliance on another decision of this Court decided by Single Bench in the case of J.N. Fuloria Vs. Smt. Benibai and Another, wherein learned Single Judge followed the dictum of Full Bench decision of Anand Swaroop (supra). On these premised reasons, it has been argued by Shri Pandey, learned Counsel for the petitioner that revision be allowed.

4. The stand of learned Counsel is based on decisions which are no more good in law. True, earlier Full Bench of this Court in the case of Anand Swaroop (supra) has held that Special Court created u/s 14 of the Act can take cognizance without committal proceedings u/s 193, Cr.PC and private complaint can also be entertained by Special Court directly and overruled the Division Bench decision of Meera Bai Vs. Bhujbal Singh and Others, wherein it was categorically held that Special Courts constituted under the Act has no jurisdiction to try offence unless the case being committed to it u/s 193, Cr.PC. But, the decision of Anand Swaroop (supra), now can not be said to be a good law for the simple reason that the Apex Court in the case of Gangula Ashok and Another Vs. State of A.P., has categorically held that "Special Court" constituted under the Act can not take cognizance directly as a Court of original jurisdiction without the case being committed to it by a Magistrate in view of Section 193, Cr.PC. Their Lordships further held that Sections 4 and 5 of Cr.PC do not indicate any departure from this position. The Apex Court while holding so in Para 17 held that the view of Madhya Pradesh High Court is also the same and referred the decision of Meera Bai's case (supra).

5. In view of the decision of the Apex Court in the case of Gangula Ashok (supra) the argument of learned Counsel can not be accepted that under the Act private complaint is to be submitted directly to the Special Court constituted u/s 14 of the Act without following the procedure as envisaged u/s 193, Cr.PC.

6. In this view of the matter, though there is no substance in this revision petition, however, for the ends of justice the learned Magistrate is hereby directed that if he thinks it fit to commit the case to Special Court, he may do so irrespective of fact whether present petitioners are present before it or not. It will be for the Special Court to pass suitable orders in that regard.

7. With the aforesaid observations, this revision petition is disposed of.

C.C. be given today itself.