
(2019) 04 MP CK 0093

In the Madhya Pradesh High Court

Case No : Writ Petition No. No. 3466 Of 2019

Gokaran Sharma

APPELLANT

Vs

State Of Madhya Pradesh

RESPONDENT

Date of Decision : 05-04-2019

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 82, 83

Citation : (2019) 04 MP CK 0093

Hon'ble Judges : G.S. Ahluwalia, J

Bench : Single Bench

Advocate : Vivek Jain, Ankur Mody

Final Decision : Allowed

Judgement

On 27.03.2019 an impression was given by the counsel for the State that the order under Section 83 of Cr.P.C. has already been obtained, therefore, the State counsel was directed to clarify as to on what date the order under Section 83 of Cr.P.C. was passed by the Court of competent jurisdiction. On 28.03.2019 three days' time was sought by the counsel for the State and accordingly the case has come up before this Court.

It is pointed out by the counsel for the State that the order under Section 83 of Cr.P.C. was issued on 28.03.2019 i.e. one day after 27.03.2019. Thus, the impression which was given by the Government Advocate on 27.03.2019 that an order under Section 83 of Cr.P.C. has already been passed by the Court of competent jurisdiction was false. However, that is not the question of concern. The question of concern before this Court was that when the order under Section 82 of Cr.P.C. was passed in the month of February, 2018, then why the Investigating Officer was sleeping over the matter and why he woke up only after the order on 27.03.2019 was passed by this Court.

The Director General of Police has issued a circular dated 30.3.2019 expressing his displeasure on the inefficient efforts by the police authorities in executing the

warrants of arrest and has also issued certain instructions to the Superintendent of Police to deal with the situation. Accordingly, in the light of the circular issued by the Director General of Police, this Court directed the Government Advocate to keep the Superintendent of Police, CSP of the concerning area, Town Inspector of the concerning police station as well as the Investigating Officer present before this Court at 2.30 pm.

At 2.30 all the officers have appeared. In the presence of the Superintendent of Police, Gwalior, the Investigating Officer was asked to read out from the diary about the details of the efforts made by the police authorities in tracing out the absconding accused persons.

After going through the case diary, it was pointed out by the Investigating Officer that in the month of July, 2017 the accused persons were searched in Birla Nagar area. In the month of August, 2017 again a search was made. In the month of September 2017 a prayer was made to the concerning Court and accordingly the arrest warrants were got issued against the absconding accused persons. Thereafter, in the month of November, 2017 absconsion memo was prepared as the accused persons were not found in Hazira and surrounding areas of Birla Nagar. Thereafter, in the month of February, 2018 an application under Section 82 and 83 of Cr.P.C. was filed and accordingly an order under Section 82 of Cr.P.C. was passed by the Court of competent jurisdiction. In the month of April 2018 when the Investigating Officer made a prayer for an order under Section 83 of Cr.P.C., then he was directed by the Court of competent jurisdiction to comply the provisions of Section 82 of Cr.P.C. in a more effective manner and accordingly they were directed to publish the notice in the newspapers. Thereafter, admittedly, the case diary was never opened even for a single day.

It is submitted by the Investigating Officer that although he was transferred to the concerning police station in the month of August, 2018 but he has been handed over the investigation of this case on 3.1.2019. Thus, so far as the non-action on the part of the Investigating Officer is concerned, he cannot be saddled with the liability for the non-action of his predecessor. It is submitted by the Investigating Officer When the Investigating Officer was asked to inform this Court about the steps taken by him either for searching the accused persons or for obtaining an order under Section 83 of Cr.P.C., then it is submitted by the Investigating Officer that he has got a news published in the daily newspaper known as Sudarshan Express published from Gwalior. Although, he admitted that this paper has no good circulation in the city of Gwalior and he admitted that this news was published on 3.1.2019 itself.

It is submitted by the Investigating Officer that after 3.1.2019 he did not take any action but submitted that because one of his family member is seriously ill and therefore he was on leave for a period of one month and again joined his duties in the later part of February, 2019. However, he fairly conceded that the return was filed on 23.03.2019 and atleast on 23.03.2019 he was aware of the fact that no order under Section 83 of Cr.P.C. has been obtained so far but still he

did not take any action in that regard and he woke up only after the order dated 27.03.2019 was passed by this Court when the State authorities were directed to file the copy of the order passed under Section 83 of Cr.P.C. because on 27.03.2019 an attempt was made to mislead the Court by giving an impression that the order Section 83 of Cr.P.C. has already been issued.

The Director General of Police has issued the following circular dated 30.03.2019 which is reproduced below:-

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