
(2020) 06 MP CK 0118
In the Madhya Pradesh High Court
Case No : Writ Petition No. 8541 Of 2020

Khema Verma

APPELLANT

Vs

State of MP and Others

RESPONDENT

Date of Decision : 25-06-2020

Acts Referred:

Scheduled Castes And Scheduled Tribes (Prevention Of Atrocities) Act, 1989 — Section 4, 18A

Code Of Criminal Procedure, 1973 — Section 41, 173(1), 482

Citation : (2020) 06 MP CK 0118

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

Bench : Single Bench

Advocate : Raj Kumar Shrivastava, C P Singh,

Final Decision : Disposed Of

Judgement

This petition under Article 226 of the Constitution of India has been filed seeking the following reliefs:-

"7.1. That, direct the respondents to take legal action against the accused persons and do the appropriate proceeding.

7.2. That, appropriate legal action must be taken against Respondent No.4 on the basis of application dated 20-05-2020.

7.3. That, any other relief in light of equity, justice and conscience."

It is submitted by the counsel for the petitioner that the respondent No.4 has personal prejudice against the petitioner and in spite of that, he is conducting a preliminary enquiry into the allegations made by the petitioner against certain accused persons. It is further submitted that in view of Section 18-A of the

Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, preliminary enquiry is not mandatory and the FIR can be registered directly and non-

registration of FIR is punishable under Section 4 of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

Heard the counsel for the petitioner through Video Conferencing. By this petition, the petitioner is seeking registration of FIR against certain persons, who have not been impleaded as respondents in the present petition.

The Supreme Court in the case of D. Venkatasubramaniam v. M.K. Mohan Krishnamachari reported in (2009) 10 SCC 488 has held as under :-

"19. The High Court, within a period of one month from the date of filing of the petition, finally disposed of the same observing that, "it is obligatory on the part of the

respondent police to conduct investigation in accordance with law, including recording of statements from witnesses, arrest, seizure of property, perusal of various documents

and filing of chargesheet. It is also needless to state that if any account is available with the accused persons, or any amount is in their possession and any account is

maintained in a nationalised bank, it is obligatory on the part of the respondent police to take all necessary steps to safeguard the interest of the aggrieved persons in this

case".

The Court accordingly directed the police to expedite and complete the investigation within six months from the date of receipt of a copy of the order. The said order of the

High Court is impugned in these appeals.

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25. It is the statutory obligation and duty of the police to investigate into the crime and the courts normally ought not to interfere and guide the investigating agency as to in

what manner the investigation has to proceed. In M.C. Abraham v. State of Maharashtra (2003) 2 SCC 649 this Court observed: (SCC pp. 657-58, para 14)

"14. Section 41 of the Code of Criminal Procedure provides for arrest by a police officer without an order from a Magistrate and without a warrant. The section gives

discretion to the police officer who may, without an order from a Magistrate and even without a warrant, arrest any person in the situations enumerated in that section. It is

discretion.

32. It is not necessary that every investigation should result in arrest, seizure of the property and ultimately in filing of the charge sheet. The police, in exercise of its statutory

power coupled with duty, upon investigation of a case, may find that a case is made out requiring it to file charge sheet or may find that no case as such is made out. It needs

no reiteration that the jurisdiction under Section 482 of the Code conferred on the High Court has to be exercised sparingly, carefully and with caution only where such exercise

is justified by the test laid down in the provision itself.

33. Yet another aspect of the matter, the appellants have not been impleaded as party respondents in the criminal petition in which the whole of the allegations are levelled

against them. The High Court never thought it fit to put the appellants on notice before issuing appropriate directions to the police to arrest, seize the property and file charge

sheet. This Court in *Dinine Retreat Centre V. State of Kerala & Ors.* (2008) 3 SCC 542 observed: (SCC p.565, para 51)

51.....We are concerned with the question as to whether the High Court could have passed a judicial order directing investigation against the appellant and its activities

without providing an opportunity of being heard to it. The case on hand is a case where the criminal law is directed to be set in motion on the basis of the allegations made in

anonymous petition filed in the High Court. No judicial order can ever be passed by any court without providing a reasonable opportunity of being heard to the person likely to

be affected by such order and particularly when such (2008) 3 SCC 542 order results in drastic consequences of affecting one's own reputation.

(emphasis is of ours)

34. The High Court in the present case, without realizing the consequences, issued directions in a casual and mechanical manner without hearing the appellants. The impugned

order is a nullity and liable to be set aside only on that score.

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36 .The power under Section 482 of the Code can be exercised by the High Court either suo motu or on an application (i) to secure the ends of justice; (ii) the High Court may

make such orders as may be necessary to give effect to any order under the Code; (iii) to prevent abuse of the process of any Court. There is no other ground on which the

High Court may exercise its inherent power.

37. In the present case, the High Court did not record any reasons whatsoever why and for what reasons, the matter required its interference. The High Court is not expected to

make any casual observations without having any regard to the possible consequences that may ensue from such observations. Observations coming from the higher Courts

may have their own effect of influencing the course of events and process of law. For that reason, no uncalled for observations are to be made while disposing of the matters

and that too without hearing the persons likely to be affected. The case on hand is itself a classic illustration as to how such observations could result in drastic and

consequences of far reaching in nature. We wish to say no more.

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42. For the aforesaid reasons, we find it difficult to sustain the impugned judgment of the High Court. Leave granted. The appeals are accordingly allowed and the impugned

order is set aside. "

Thus, this Court cannot supervise the investigation and giving a direction to arrest the accused persons and file the charge sheet, would certainly amount to supervising the investigation.

Section 173(1) of Cr.P.C. reads as under :-

173. Report of police officer on completion of investigation." (1) Every investigation under this Chapter shall be completed without unnecessary delay.

Thus, completion of investigation without unnecessary delay is the mandate of law. The Investigating Officer, cannot keep the investigation pending, and he has to come to a conclusion that whether any offence is made out or not? It is obligatory on the part of the Investigating Officer, to conclude the investigation,

as

early as possible, and to file the final report (Closure report or charge sheet) without any delay.

Thus, this petition is disposed of in the light of the mandatory provision of Section 173(1) of Cr.P.C. and the Investigating/enquiry Officer is directed to

conclude the investigation/enquiry as early as possible and to take necessary steps as required under the law. In case of any grievance, the petitioner is free to make an application to the Superintendent of Police, which shall be looked into in accordance with law.

With aforesaid observations, this petition is finally disposed of.