
(1995) 09 MP CK 0016
In the Madhya Pradesh High Court

Mahendra Singh Yadav

APPELLANT

Vs

Susti Babloo and Others

RESPONDENT

Date of Decision : 29-09-1995

Acts Referred:

Explosive Substances Act, 1908 — Section 3, 5
Penal Code, 1860 (IPC) — Section 147, 148, 149, 336, 427

Citation : (1996) 1 ACC 157

Hon'ble Judges : V.K. Agrawal, J

Bench : Single Bench

Judgement

V.K. Agrawal, J.—This revision is directed against the order dated 26.6.1995 passed in Civil Suit No. 67-B/1994 of the Court of XIV Civil Judge, Class-II, Jabalpur, whereby further proceedings in that civil suit have been ordered to be stayed, in view of pendency of a criminal case filed by P.S. Ranjhi.

2. There was an incident of rioting, mischief etc. reported at Police Station, Ranjhi on 5.12.1993. On the basis of that report, a challan against the non-applicants has been admittedly filed for offences punishable under Sections 147/148/149/336/ 427 I.P.C. and under Sections 3/5 of Explosives & Substances Act. That criminal case is pending against the non-applicants/accused.

3. The applicant/plaintiff has also filed Civil Suit No. 67-B/94 in the Trial Court against the defendants/non-applicants for recovery of compensation on account of wrongful damage caused to his property by the non-applicants/ defendants during the same incident dated 5.12.1993. The Trial Court has stayed the proceedings of the civil suit, in view of the tendency of the above criminal case.

4. In this revision, the learned Counsel for the plaintiff/applicant has assailed the impugned order on the ground that the order is illegal and the plaintiff/applicant would be prejudiced by the said order, as the civil suit shall not make any progress, in view of the stay of the proceedings of the case by the impugned order. It has also been urged on behalf of the applicant that no prejudice would be caused in case suit is proceeded with.

5. It is not disputed that the criminal prosecution as well as the civil suit is based on incident of rioting, etc. that took place on 5.12.1993 and allegedly committed by the non-applicants/defendants. On account of the said incident, they are liable to be punished in the criminal trial, if the charges are proved against them, while they will incur civil liability under Tort in the civil suit filed by the applicant/plaintiff, if he is able to prove his case. Therefore, the criminal appeal and also the civil suit are the outcome of the same incident. The learned Trial Court has observed that since the defendants are likely to be prejudiced on being asked to file their written statement, therefore, it has chosen to stay the proceedings of the civil suit. The legality of the impugned-order has to be considered.

6. In the case of *M.S. Sheriff Vs. The State of Madras and Others*, , where the matter of stay of one of the two proceedings--one being of civil nature and the other being of criminal nature--arising out of the same facts, came up for consideration and it was laid down therein, as below:

(15) As between the civil and criminal proceedings we are of the opinion that the criminal matters should be given precedence. There is some difference of opinion in the High Courts of India on this point. No hard and fast rule can be laid down but we do not consider that the possibility of conflicting decisions in the Civil and Criminal Courts is a relevant consideration. The law envisages such an eventuality when it expressly refrains from making the decision of one Court binding on the other, or even relevant, except for certain limited purposes, such as sentence or damages. The only relevant consideration here is the likelihood of embarrassment.

It has further been observed in the above case that since the civil suit is likely to drag on for years, the criminal prosecution should wait till everybody concerned is forgotten all about the crime. It has also been observed that the public interest demands that criminal justice should be swift and sure; that the guilty should be punished while the events are still fresh in the public mind and that the innocent should be absolved as early as is consistent with a fair and impartial trial.

7. In *Mohanlal v. Sheoram* 1981 J LJ SN (24) similar matter was under consideration and the order of the lower Court for stay of the suit, in view of the pending criminal proceedings, was upheld. In *New Bank of India v. Mis. Radhakishan and Co. and Ors*) 1988 ILJ 687 after consideration of case law reported and unreported on the point, and also after relying on the decision of *Sheriffs case* (supra), the order of the Trial Court staying the civil suit till the tendency of the Criminal case, which was launched on the same grounds, was held to be proper.

8. Applying the above principle of law in instant case also, I find that the exercise of discretion by the Trial Court in the impugned-order, directing stay of the proceedings of the civil suit till the disposal of the criminal case, for the reasons assigned in the impugned order, is proper and does not call for any interference.

9. There appears to be no illegality or irregularity in the impugned-order, which

appears to be just and proper. No interference is called for. The revision is, therefore, dismissed without notice to the other side.