

(2023) 07 MP CK 0103

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No. 32214 Of 2023

Maresh Gurjar And Others

APPELLANT

Vs

State Of Madhya Pradesh And Others

RESPONDENT

Date of Decision : 24-07-2023

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 482
Indian Penal Code, 1860 — Section 34, 420

Citation : (2023) 07 MP CK 0103

Hon'ble Judges : Roopesh Chandra Varshney, J

Bench : Single Bench

Advocate : Uma Kushwah, Pramod Pachauri

Final Decision : Dismissed

Judgement

Roopesh Chandra Varshney, J

1. Instant petition is filed by the petitioner/accused under Section 482 of Cr.P.C. for quashment of FIR registered vide Crime No. 574/2023 dated 6/7/23 by Police Station Maharajpura, District Gwalior for offence under Sections 420, 34 of IPC.

2. It is the submission of learned counsel for the petitioner that petitioner has been falsely implicated in the matter by respondent No. 2. Petitioners have no relations with the alleged offence. No amount has ever been received by petitioners in lieu of jewellery, which according to complainant was artificial.

3. Learned counsel for the State opposed the prayer and submits that it can be a case of false FIR; however, to prove their respective innocence, trial is necessary. He prayed for dismissal of the petition.

4. Heard.

5. From the pleadings, it appears that the grounds raised by petitioner to prove their part of innocence, can only be pleaded and proved by leading evidence and thus the grounds as tried to be raised is matter of evidence and can only be

tested on the anvil of cross-examination of the witnesses. Further the named FIR has been lodged by the complainant. As submitted investigation is still in progress and he can participate in investigation and even after investigation, in trial petitioner can raise all the grounds as raised in this petition at an appropriate stage in his defence. Merely by referring that petitioner has been falsely implicated, no conclusion can be drawn pre-empting the controversy. Best way to reach the truth is trial; wherein, cross-examination would bring forth the exact facts.

6. Scope of Section 482 of Cr.P.C. is very limited and it can be exercised sparingly under the extraordinary jurisdiction. Hon'ble Supreme Court in the matter of Taramani Parakh Vs. State of M.P. & Ors., 2015 Cr.L.J. (SC) 2031 has held that quashing of a charge is an exception to the rule of continuous prosecution. When the offence is even broadly satisfied, the Court should be more inclined to permit continuation of prosecution rather than its quashing at the initial stage. The Court is not expected to marshal the records with a view to decide admissibility and reliability of the documents on records but is an opinion formed prima facie. The defence raised by the accused persons cannot be considered at the stage of exercising powers under Section 482 of Cr.P.C. and the legitimate prosecution should not be stifled at such an early stage. In the case of Vinod Raghuvanshi Vs. Ajay Arora, (2013) 10 SCC 581, Apex Court has held that it is a settled legal proposition that while considering the case for quashing of the criminal proceedings the Court should not "Kill a stillborn child", and appropriate prosecution should not be stifled unless there are compelling circumstances to do so.

7. The allegation made against the petitioners do prima facie make out an offence as referred above. Further in the case in hand, investigation is still in progress and therefore, petitioner may plead his part of innocence by participating in investigation and thereafter by leading evidence oral as well as documentary in trial in accordance with law. At this stage no indulgence can be shown, case has to be seen on its own merits.

8. Cumulatively, petition sans merits and is hereby dismissed.