

(2014) 01 MP CK 0035
In the Madhya Pradesh High Court
Case No : W.P. No. 8926 of 2013

Mala Devi

APPELLANT

Vs

State of M.P. and Others

RESPONDENT

Date of Decision : 20-01-2014

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2014) 2 MPLJ 82

Hon'ble Judges : Sheel Nagu, J

Bench : Single Bench

Advocate : T.C. Singhal, Advocate for the Appellant; Praveen Newaskar, Dy. Government Advocate, Advocate for the Respondent

Judgement

Sheel Nagu, J.—This petition filed under Article 226 of Constitution of India, seeks protection of the Police Authorities of life, liberty and dignity of the petitioner from offenders who are accused of charge of murder of the husband of the petitioner. A further prayer for grant of arms license for self-defence has also been sought. Learned counsel for the rival parties are heard on the question of admission.

2. From the perusal of the request letter dated 15-10-2013 vide P-5 written by the petitioner, it appears from Para. 3, that a police guard has already been provided to the petitioner. The petitioner has lodged an FIR that her husband was murdered by the offenders leading to registration of an offence bearing Crime No. 77/13 at Police Station Barohi, Distt. Bhind. Seven accused have been alleged in the FIR lodged on 4-10-2013.

3. It is further alleged that on 7-10-2013, certain unknown persons have tried to assault and threaten the petitioner and it is also alleged that no one has yet been arrested in regard to the incident of threatening which took place on 7-10-2013 and the petitioner and her family is being threatened and are unable to exercise their right to life and liberty in a free and fair manner. It is contended that the representation given to the Superintendent of Police, Distt. Bhind dated

7-10-2013 P4 has been of no avail.

4. Since it is seen from one of the representations P-5 that a police guard has already been provided, this Court would not like to go into sufficiency or insufficiency of the police protection provided but surely from the circumstances attending the case, it appears that apprehension has been expressed by the petitioner that life, liberty and dignity of her own and her family members is in danger on account of the incident which is alleged to have occurred on 7-10-2013.

5. The police authorities are duty bound to protect life, liberty and dignity of all citizens especially when the said citizen is a complainant eye-witness of incident of murder and as such is a prime witness of the prosecution on whom depends the fate of the prosecution case.

6. The prosecution thus obliged not only to protect the life, liberty and dignity of the said eye-witness from being endangered but also to provide protection to all members of the family of the said eye-witness so that the eyewitness is assured of an environment of safety against the offenders to enable the eye-witness to depose in a free and fair manner before the Court.

The police authorities who are the custodians of law and order are constitutionally obliged to instill a sense of security in the heart and mind of every common man and create an environment where the righteous can roam free with their head held high, while the accused or the offender dare not even think of repeating their culpable misdemeanors. When a prosecution witness is threatened, the entire investigative agency is under threat. Prosecution story predominantly depends upon the prosecution witnesses. If the police fails to provide an atmosphere free from insecurity of life and liberty to its witnesses, then acquittals shall become a rule and conviction exceptions. Out of fear and sense of insecurity, witnesses turn hostile and resile from their earlier stand rendering the entire investigation unsuccessful. When offence does not lead to punishment, then the victim is left cheated, law and order injured and trust of the common man in legal institutions eroded. This kind of situation if allowed to continue unchecked can lead to anarchy. The Superintendent of Police of the district concerned is thus duty bound to at least ensure creation of atmosphere free from any apprehension from the offenders/accused to enable the prosecution witnesses to depose fearlessly before the Court. In view of the above, this Court disposes of this petition with the following directions:

1. The petitioner is directed to prefer a representation to the Superintendent, Bhind expressing her apprehension and demanding protection or additional protection as the case may be within a period of 30 days from today.

2. In case, the above said direction is complied with by the petitioner, then Superintendent of Police, Distt. Bhind shall forthwith attend to the said apprehension and grievance expressed by the petitioner and take appropriate steps in accordance with law which are necessary to protect the life, liberty,

dignity and property of the petitioner and her family members so as to provide her an environment free from fear and insecurity to enable her to depose as an eye-witness before the trial Court.

3. The petitioner is free to apply for an arms license in accordance with law.