
(2011) 07 MP CK 0052

In the Madhya Pradesh High Court

Case No : Writ Petition No. 2156 of 2005

Mohd. Latif Mansuri

APPELLANT

Vs

State of Madhya Pradesh and Others

RESPONDENT

Date of Decision : 07-07-2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 200

Citation : (2011) 07 MP CK 0052

Hon'ble Judges : Ravi Shankar Jha, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

R.S. Jha, J.—The Petitioner has filed this petition seeking a direction to the Respondents to pay compensation to the tune of Rs. five lacs to the Petitioner and for taking appropriate action against the police personnel on account of the fact that the Petitioner has been illegally detained, beaten and harassed by the police without any authority of law.

2. The brief facts on the basis of which the petition has been filed, are that the Petitioner is a citizen of India and resident of Anuppur. His elder brother Sheikh Mustak Mansuri had married one Mahjabi Anjum of Jabalpur, however, on account of differences between them she started living separately at Jabalpur and, thereafter, lodged a complaint at Mahila Police Station, Jabalpur, on 18-1-2000 against the Petitioner's father, mother, brothers and sisters alleging commission of offence u/s 498-A and 406/34 of the Indian Penal Code in respect of which a Crime No. 4/2000 was registered. It is alleged that on the basis of the First Information Report the police party went to Anuppur, ransacked the Petitioner's house, beat up all the inmates including the Petitioner, looted valuables and arrested the Petitioner's father, mother and brothers on 7-7-2000. It is alleged that though the Petitioner's name was not mentioned in the FIR, he was also arrested by the police in place of Hamid whose name was in the FIR. It is stated that in spite of the fact that the Petitioner tried hard to convince the

police authorities that he was not Hamid the Petitioner was sent to judicial custody and a trial was instituted against him and his family members. It is stated that ultimately all of them have been acquitted by judgment dated 18-12-2002 passed by the Judicial Magistrate First Class, Jabalpur in Criminal Case No. 855/2000. It is also stated that the Petitioner's father had filed a petition before this Court against the atrocities committed by the Respondent/authorities which was registered as W.P. No. 4478/2001 and was disposed of by order dated 21-1-2002 with a direction to the Secretary, Department of Home to get an enquiry conducted by a high ranking officer with regard to the allegations made therein. It is informed that pursuant to the aforesaid directions an enquiry was conducted and none of the police officers was found guilty. It is also informed that a complaint case u/s 200 of the Code of Criminal Procedure against the concerned police officers and personnel is pending adjudication before the Judicial Magistrate First Class, Anuppur. In such circumstances, it is stated that as the Petitioner was not named in the FIR, was wrongly detained by mentioning his name as Hamid alias Latif was harassed, prosecuted and beaten up although he was innocent, he, in such circumstances, be awarded compensation to the tune of Rs. five lacs.

3. The learned Govt. Advocate, appearing for the State/Respondents points out that the Petitioner Hamid alias Latif was an accused in the trial instituted in the Court of Judicial Magistrate First Class, Anuppur in which he has been acquitted. It is pointed out that during the trial the Petitioner did not take up such a defence before the trial Court that he was not Hamid and was a different person who was in fact not related to the alleged offence as is evident from a perusal of the judgment of the trial Court, copy of which has been filed along with the Petitioner as Annexure P-8. It is also pointed out that an enquiry has been conducted on the direction of this Court in which none of the allegations of the Petitioner's father have been found proved and in such circumstances the claim made by the Petitioner being misconceived deserves to be rejected.

4. I have heard the learned Counsel appearing for the parties at length and gone through the record. Admittedly, from a perusal of the judgment of the Judicial Magistrate First Class, Jabalpur (Annexure P-8) it is evident that though the Petitioner Hamid alias Latif was an accused in the aforesaid trial, he has not taken up any such defence before the trial Court to the effect that he is not Hamid alias Latif. It is also evident from a perusal of the order passed by this Court in W.P. No. 4478/2001 which was filed by the Petitioner's father, that the aforesaid plea was not mentioned in the aforesaid petition, nor any such prayer was made as is evident in the prayer clause which has been reproduced in the order dated 21-1-2002 in W.P. No. 4478/2001. It is further clear that even in the complaint filed before the police authorities which was directed to be enquired into by this Court no such averment was made by the Petitioner that he was not Hamid alias Latif. It is stated that this issue has also not been taken up in the complaint case pending before the Judicial Magistrate First Class, Anuppur either. In such circumstances, the claim of the Petitioner which is made in respect of an

incident that occurred in the year 2000 in a petition that has been filed in the year 2005 without taking up this issue as a defence in the trial or in the complaint itself indicates that there is no substance in the claim of the Petitioner.

5. Quite apart from the above, it is an admitted fact that the Petitioner Hamid alias Latif was duly prosecuted in the criminal trial and participated in the entire proceedings and in such circumstances, it is difficult to accept that the Petitioner was detained for no rhyme or reason without any authority of law as has been claimed by him in the present writ petition claiming compensation in that respect and as the Petitioner was duly prosecuted in the trial and that the complaint filed by his father was enquired into and in the enquiry no irregularity was found against the police personnel, the question of awarding compensation to the Petitioner does not arise. The petition being misconceived is accordingly dismissed.