

(2016) 05 MP CK 0015

In the Madhya Pradesh High Court

Case No : Writ Petition No. 21311 of 2015.

Paras Dwivedi - Petitioner @HASH State of M.P. and Others

Date of Decision : 09-05-2016

Acts Referred:

Constitution of India, 1950 — Article 226
Penal Code, 1860 (IPC) — Section 120B, Section 294, Section 34, Section 452,
Section 506(2)

Citation : (2016) 2 JabLJ 206

Hon'ble Judges : Sanjay Yadav, J.

Bench : Single Bench

Advocate : Present in Person, for the Petitioner; Shri Girish Kekre, Government Advocate, for the Respondent No. 1-State of M.P; Shri N.K. Gupta, Learned Counsel, for the Respondent Nos. 2, 3, 4 and 6; Shri Sharad Gupta, Learned Counsel, for the Respondent Nos. 5, 7

Final Decision : Disposed Off

Judgement

Sanjay Yadav, J. - Shri Ritwik Parashar, Advocate appointed as Amicus Curiae to assist the Court vide order dated 19.02.2016 submits that he is not getting any assistance from the petitioner as would enable him to assist the Court and, therefore, prays for withdrawal of himself.

2. Taking into consideration the submission, Shri Ritwik Parashar is permitted to withdraw himself from the proceedings.

3. Petitioner vide this petition under Article 226 of the Constitution of India seeks following relief :

(i) The petitioner want to register F.I.R. u/s 452, 34, 120-B, 294 and 506(2) against the accused Pravin Chouhan and his supporters named in this petition.

(ii) The petitioner wants a security guard of police to safeguard petitioner and his mother and his property from accused and his supporters because very danger of life of petitioner and his mother from accused and his supports even there is danger to petitioner's property and petitioner had no source of earning and he is

dependent on pension of his father and therefore, petitioner request the Hon''ble Court that security guard must be provided free of cost."

4. On a response being sought from the State, return is filed. It is contended that the petitioner is habitual of making enormous complaints against several persons. On each and every complaint inquiry has been conducted and the complaints of the petitioner have been found meritless. A copy of inquiry report dated 29.12.2015, 07.01.2016 and 19.12.2015 are brought on record as Annexure R/1, Annexure R/2 and Annexure R/3 respectively. It is further contended that in respect of the allegations made in this petition a detailed inquiry has been conducted by the police, however, no cognisable offence was found. It is also contended that during the course of inquiry it was found that the petitioner in respect of the relief sought in the present petition has also filed a complaint before Judicial Magistrate First Class, District Jabalpur whereon report was called on from the police which has since been submitted on 29.12.2015. The respondents have further filed a report Annexure R/3 indicating therein criminal cases registered against the petitioner. The same is reproduced as under :

dz0

vijk/kh dk uke

firk@ifr dk uke

mez

vijk/kh dk irk

fuokl Fkkuk

fuokl ftyk

vijk/k dz0

fo/kku ,oa /kkjk,a

vijk/k Fkkuk

vijk/k ftyk

vijk/k izdkj

vijk/k fnukad

fLFkfr

1-

ikjl

f}osnh

dSyk''k ukjk;.k

30

13@89] jru uxj Fkkuk

x<+k

tcyiqj

334/10

IPC 498A 507

x<+k

tcyiqj

izrkm+uk

24-03-2010

fxjQ~rkj

2-

ikjl

f}osnh

ds0,u0 f}osnh

31

ch&89] jru uxj Fkkuk x<+k

x<+k

tcyiqj

440/11

IPC 294, 354, 506, 509, 452

x<+k

tcyiqj

NsM+NkM+ djuk

15-06-2011

fxjQ~rkj

3-

ikjl

f}osnh

ds0,u0 f}osnh

31

ch&89] jru uxj Fkkuk x<+k

x<+k

tcyiqj

454/11

IPC 506, 509, 294

x<+k

tcyiqj

/kedh

20-06-2011

fxjQ~rkj

4-

ikjl

f}osnh

dSyk"k

f}osnh

31

ch&89 jru uxj Fkkuk x<+k

x<+k

tcyiqj

97/12

IPC 452, 506, 294

x<+k

tcyiqj

vijkf/kd vR;kpkj

29-01-2012

fxjQ~rkj

5-

ikjl

f}osnh

dSyk" k ukjk;.k

32

ch&59] jru uxj x<+k]

x<+k

tcyiqj

254/13

IPC 509, 294, 506

x<+k

tcyiqj

NsM+NkM+ djuk

21-04-2013

fxjQ~rkj

5. It is contended on behalf of respondents that no cognisable offence is made out rather the petitioner himself was found indulged in criminal activities, therefore, he is not entitled for the relief sought for by him. It is further contended that in the present proceedings on 19.02.2016, petitioner was granted liberty to approach City Superintendent of Police, Gorakhpur for adequate police protection whereon police protection was provided to him, however, it was subsequently found that there no imminent danger to the life or property of the petitioner is perceived by the police during this period, as such leave is sought vide I.A. No. 4923/2016 to withdraw the same. It is, accordingly, urged that the petition being devoid of merits is liable to be dismissed.

6. The report which has been tendered on a direction by Judicial Magistrate First Class, District Jabalpur is brought on record as Annexure R/1 which is self-explanatory and is in the following terms :

dk;kZy; Fkkuk izHkkjh x<+k ftyk tcyiqj

dzekad@x<+k@f" kdk0@57@2015

fnukad 29-12-2015

izfr]

ekuuh; U;kf;d naMkf/kdkjh egksn;

izFke Js.kh U;k;ky; tcyiqj

fo" k;%& vkosnd iklj f}osnh fuoklh ea0u0 ch&89 jru uxj Fkkuk x<+k tcyiqj ds }
kjk ekuuh; U;k;ky; ds le{k izLrqr ifjokn ds laca/k esaA

lanHkZ%& 1- ekuuh; U;k;ky; dk vkns" k dzekad@57@2015 fnukad 28-12-2015

egksn; th]

fuosnu gS fd vkosnd ikjl f}osnh firk dSyk''k ukjk;.k f}osnh mez 35 o''kZ fuoklh ch&89] jru uxj Fkkuk x<+k tcyiqj ds }kjk ekuuh; U;k;ky; ds le{k izLrqr ifjokn ds ek;/e ls nh xbZ f''kdk;r ij izFke lwpuk fjiksVZ ugha fy[ks tkus ds laca/k esa ifjokn izLrqr fd;k x;k gS] vkosnd jru uxj esa ch&89 esa fuokl djrk gS] rFkk is''ks ls odhy gS] rks vkosnd ds iM+ksl esa ea0ua0 ,@34 ih0ds0 nqcs dk edku fLFkr gSA ftlesa izHkk iztkifr ifr nhid iztkifr] nhid iztkifr firk ds0,y0 iztkifr rFkk xus''kh eYykg ifr gqYdj eYykg fdjk, ls jgrs gSa rFkk iwoZ esa izoh.k pkSgku vius ifjokj ds lkFk jgrk Fkk tks orZeku esa og edku NksM+dj ch@49] jru uxj esa jgrk gSA tks ifjokj ds vukosnd izoh.k pkSgku rFkk T;ksfr pkSgku izHkk iztkifr ifr nhid iztkifr] nhid iztkifr firk ds0,y0 iztkifr] xus''kh eYykg ifr gqYdj eYykg ,oa iM+kslh nhid oekZ iwoZ esa ds dFku fy, x, rFkk vkosnd ikjl f}osnh ds Hkh iwoZ esa dFku ys[k fd, x, gSaA

tkS ikjl f}osnh ,oa izoh.k pkSgku rFkk izoh.k pkSgku dh iRuh T;ksfr pkSgku ds chp o''kZ 2011 ls nksuksa i{kksa ds chp >xM+k fookn ekjihV gksus ls ,d&nwljs ds f[kykQ fjiksVZ Fkkus esa fjiksVZ dh xbZ ftl ij Fkkuk x<+k esa vkosnd ikjl f}osnh ds fjiksVZ ij izoh.k pkSgku ds fo:) vij/k/k dzekad 439@11 /kkjk 294] 452] 34] 506] 323 rk0fg0 vi0dz0 236@12 /kkjk 506] 294 rk0fg0 rFkk izoh.k pkSgku ,oa T;ksfr pkSgku dh fjiksVZ ij ikjl f}osnh ds fo:) vij/k/k dzekad 440@11 /kkjk 294] 354] 506] 509] 452 rk0fg0 454@11 /kkjk 506] 509] 294 rk0fg0 97@12 /kkjk 452] 506] 294 rk0fg0 dk vij/k/k iathc) gksdj ekeyk ekuuh; U;k;ky; esa fopkjk/khu gSa] tks vkosnd ds Hkh U;k;ky; esa izdj.k py jgk gS] bl fo}s''k ls vkosnd vk, fnu f''kdk;rsa ofj''B dk;kZy; ,oa Fkkuk esa f''kdk;r nsrs jgrk gS] nksuksa i{kksa ds chp vkilh eueqVko o jaft''k j[kus ls ''kkafr cuk, j[kus gsrq le; le; ij izfrca/kkRed dh dk;Zokgh Hkh dh xbZ gSA orZeku esa izoh.k pkSgku rFkk T;ksfr pkSgku ,&34 ih0ds0 nqcs ds fdjk, ds edku dks NksM+dj ch@49] jru uxj esa fuokl dj jgk gSA izHkk iztkfir] nhid iztkifr rFkk xus''kh eYykg tks izoh.k pkSgku o T;ksfr pkSgku ds ekeyksa esa lk{k gh gS bl dkj.k buds fo:) Hkh vkosnd f''kdk;r djrk jgrk gSA

vkosnd ikjl f}osnh firk dSyk''k ukjk;.k f}osnh tks Lo;a ds edku esa vius ekWa ds lkFk jgrk gS rFkk odkyr djrk gS] izoh.k pkSgku o vU; ds dFku ds vk/kkj ij vkosnd Lo;a ds ikfjokfjd leL;k ls Hkh xzflr gS vkosnd fd iRuh Hkh vkosnd dks NksM+dj pyh xbZ gS] ,oa ifr&iRuh ds chp Hkh fookn py jgk gS] bl dkj.k ls Hkh vkosnd vius vki esa ijs''kku gS] ftl dkj.k vk, fnu vius odkyr dk [kkSQ fn[kkdj f''kdk;r djrk jgrk gS] rFkk f''kdk;r djus dk vkfn gSA bl izdkj nksuksa i{kksa ds chp o''kZ 2011 ls fookn py jgk gSA vkosnd] vukosndksa ds fo:) izdj.k iathc) gksdj U;k;ky; esa is''k fd, tk pqds gSa ,oa buds chp vkilh jaft''k gksus ls le; le; ij ''kkafr cuk;s j[kus gsrq izfrca/kkRed dh dk;Zokgh Hkh dh xbZ gSA iM+kslh nhid oekZ tks ikjl f}osnh ds lkeus jgrk gS] ls Hkh iwoZ esa iwNrN ij ikjl f}osnh eksyYys esa vk, fnu vius odhy dh /kkSal nsdj fdlh dks Hkh csotg xkyh&xyksp djrk jgrk gS ,oa >wBk QWalkus ds fu;r ls cM+s vf/kdkjh rFkk Fkkus esa f''kdk;r djrs jgrk gSA fnukad 21-11-2014 dks eq>s Hkh csotg xkyh nsus yxk rks eSaus le>k;k ugha ekuka ikjl f}osnh ds ?kj dksbZ Hkh O;fDr >xM+k&yM+kbZ djus ugha tkrs tcju iqjkus dsl dks izHkkfor djus ds fy, vk, fnu >wBh f''kdk;r djrk gS tks csrqd gSA vkosnd }kjk

f''kdk;r esa lhMh is''k fd;k Fkk ftlesa 17&18 yksx ?kj esa vkdj ekjihV o rksM+QksM+ dh ckr dgh xbZ Fkh tks lhMh ls Hkh ?kVuk dh iqf''V ugha gqbZA vkosnd }kjk iwoZ esa Hkh dbZ f''kdk;r nh xbZ gS ftuds tkWap izfrosnu ofj''B dk;kZy;ksa esa Hksth tk pqdh gSA vkosnd }kjk Lo;a ds izdj.kksa dks U;k;ky; esa izHkkfor djus ds fy;s vk, fnu lh0,e0 gsYiykbZu ,oa f''kdk;r rFkk ekuuh; U;k;ky; esa ifjokn ds ek/;e ls f''kdk;r nsus dk vkfn gks x;k gSA

layXu%& 1- iwoZ tkWap izfrosnu ,oa dFku dh Nk;kizfr

2- vkijkf/kd fjdkMZ

Fkkuk izHkkjh x<+k] tcyiqjA"

7. Since the material brought on record does not lead to formulation of any cognisable offence, no direction can be issued under Article 226 of the Constitution of India to register a case against the respondents. Even otherwise the petitioner has already availed the statutory forum and has filed a complaint case before Judicial Magistrate First Class, District Jabalpur which is pending consideration.

8. In view whereof, the petition is disposed of finally with liberty to the petitioner to pursue the complaint case. It is, however, made clear that any observation herein this order will not come in the way in prosecuting the complaint case nor the trial Court will take note of such observation while dwelling upon the complaint lodged by the petitioner which is to be considered on its own merits.

9. In respect of claim for police protection, since it is categorically stated on behalf of respondents that there is no imminent danger to the life or property of the petitioner, no such order is passed, however, the petitioner would be at liberty to approach the Superintendent of Police with appropriate application in case if he experience such threat. The Superintendent of Police would after satisfying himself as to circumstances would be at liberty to pass a suitable order thereon. Consequently, I.A.No.4923/2016 stands disposed of in these terms.

10. Other pending interlocutory applications in the matter also stands disposed of.

11. Petition is disposed of finally in above terms.