

(2020) 06 MP CK 0111
In the Madhya Pradesh High Court
Case No : Writ Petition No. 8546 Of 2020

Parmal Singh Yadav

APPELLANT

Vs

State Of Madhya Pradesh

RESPONDENT

Date of Decision : 29-06-2020

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 41, 173(1), 482

Citation : (2020) 06 MP CK 0111

Hon'ble Judges : G. S. Ahluwalia, J

Bench : Single Bench

Advocate : R. K. Shrivastava, Ankur Modi

Final Decision : Disposed Of

Judgement

This petition under Article 226 of the Constitution of India has been filed seeking the following reliefs:

- i) That, direct the respondents to conclude the Marg enquiry and do the appropriate proceeding against the culprit.
- ii) That, any other relief in light of equity, justice and good conscience.

It is submitted by the counsel for the petitioner that a Marg (unnatural death) No.02/2020 was registered by Police Station Indaar, District Shivpuri, but the police has neither registered the FIR and arrested the accused nor has concluded the investigation so far.

So far as the prayer made by the petitioner for issuing a direction to the police to register the F.I.R., arrest the accused persons as well as to file Charge sheet is concerned, the same cannot be granted.

The Supreme Court in the case of D. Venkatasubramaniam v. M.K. Mohan Krishnamachari reported in (2009) 10 SCC 488 has held as under :-

"19. The High Court, within a period of one month from the date of filing of the

petition, finally disposed of the same observing that,

“it is obligatory on the part of the respondent police to conduct investigation in accordance with law, including recording of statements from witnesses, arrest, seizure of property, perusal of various documents and filing of chargesheet. It is also

needless to state that if any account is available with the accused persons, or any amount is in their possession and any account is maintained in a nationalised bank, it is obligatory on the part of the respondent police to take all necessary steps to

safeguard the interest of the aggrieved persons in this case.”

The Court accordingly directed the police to expedite and complete the investigation within six months from the date of receipt of a copy of the order. The said order of the High Court is impugned in these appeals.

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25. It is the statutory obligation and duty of the police to investigate into the crime and the courts normally ought not to interfere and guide the investigating agency as to in what manner the investigation has to proceed. In *M.C. Abraham v. State of*

Maharashtra (2003) 2 SCC 649 this Court observed: (SCC pp. 657-58, para 14)

“14. Section 41 of the Code of Criminal Procedure provides for arrest by a police officer without an order from a Magistrate and without a warrant. The section gives discretion to the police officer who may, without an order from a Magistrate and

even without a warrant, arrest any person in the situations enumerated in that section. It is open to him, in the course of investigation, to arrest any person who has been concerned with any cognizable offence or against whom reasonable complaint has

been made or credible information has been received, or a reasonable suspicion exists of his having been so concerned. Obviously, he is not expected to act in a mechanical manner and in all cases to arrest the accused as soon as the report is lodged. In

appropriate cases, after some investigation, the investigating officer may make up his mind as to whether it is necessary to arrest the accused person.

At that stage the court has no role to play. Since the power is discretionary, a police officer is not always bound to arrest an accused even if the allegation against him is of having committed a cognizable offence. Since an arrest is in the nature of an

encroachment on the liberty of the subject and does affect the reputation and

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case where the criminal law is directed to be set in motion on the basis of the allegations made in anonymous petition filed in the High Court. No judicial order can ever be passed by any court without providing a reasonable opportunity of being heard

to the person likely to be affected by such order and particularly when such (2008) 3 SCC 542 order results in drastic consequences of affecting one's own reputation.

(emphasis is of ours)

34. The High Court in the present case, without realizing the consequences, issued directions in a casual and mechanical manner without hearing the appellants. The impugned order is a nullity and liable to be set aside only on that score.

[illegible]

36. The power under Section 482 of the Code can be exercised by the High Court either suo motu or on an application (i) to secure the ends of justice; (ii) the High Court may make such orders as may be necessary to give effect to any order under the

Code; (iii) to prevent abuse of the process of any Court. There is no other ground on which the High Court may exercise its inherent power.

37. In the present case, the High Court did not record any reasons whatsoever why and for what reasons, the matter required its interference. The High Court is not expected to make any casual observations without having any regard to the possible

consequences that may ensue from such observations. Observations coming from the higher Courts may have their own effect of influencing the course of events and process of law. For that reason, no uncalled for observations are to be made while

disposing of the matters and that too without hearing the persons likely to be affected. The case on hand is itself a classic illustration as to how such observations could result in drastic and consequences of far reaching in nature. We wish to say no

more.

[illegible]

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42. For the aforesaid reasons, we find it difficult to sustain the impugned judgment of the High Court. Leave granted. The appeals are accordingly allowed and the impugned order is set aside. "

Thus, this Court cannot supervise the investigation and giving a direction to arrest the accused and file the charge sheet would certainly amount to supervising the investigation.

Section 173(1) of Cr.P.C. reads as under :

â??173. Report of police officer on completion of investigation.â?" (1) Every investigation under this Chapter shall be completed without unnecessary delay.â??

Thus, completion of investigation/enquiry without unnecessary delay is the mandate of the law. The Investigating Officer cannot keep the investigation pending and he has to come to a conclusion that whether any offence is made

out or not? It is obligatory on the part of the Investigating/enquiry Officer to conclude the investigation, as early as possible without any delay.

Thus, this application is disposed of in the light of the mandatory provision of Section 173(1) of Cr.P.C. and the Investigating Officer is directed to conclude the investigation/enquiry as early as possible and to take necessary steps

as required under the law.

In case of any grievance, the petitioner is free to make an application to the Superintendent of Police, Gwalior which shall be looked into in accordance with law.

With aforesaid observations, the petition is finally disposed of.

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