

(2023) 02 MP CK 0050

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No. 8211 Of 2023

Pratik Color Industries

APPELLANT

Vs

State Of Madhya Pradesh And Others

RESPONDENT

Date of Decision : 16-02-2023

Acts Referred:

Madhya Pradesh Legal Metrology Rules, 2011 — Rule 23
Code Of Criminal Procedure, 1973 — Section 482
Legal Metrology Act, 2009 — Section 8(1), 36(1)

Citation : (2023) 02 MP CK 0050

Hon'ble Judges : Vijay Kumar Shukla, J

Bench : Single Bench

Advocate : Ibrahim Kannodwala, Raghvendra Singh

Final Decision : Disposed Of

Judgement

Vijay Kumar Shukla, J

The present petition has been filed by the petitioner under Section 482 of the Code of Criminal Procedure, 1973, challenging the order dated 18.04.2022 passed by Sub/Deputy Controller, Naptol (Legal Metrology Department) directing the petitioner/firm and its partners to deposit the compounding fee for the violation of Madhya Pradesh Legal Metrology Rules, 2011. The petitioner has also challenged the order dated 28.06.2022 passed by learned Chief Judicial Magistrate, Dhar, under Section 8(1) along 36(1) of Legal Metrology Act, 2011 in Criminal Case bearing RCT No.1232/2022.

Admittedly, the petitioner has compounded the offence under Section 8(1) of Legal Metrology Act, 2009 Rules with Rules 4, 6 of the Legal Metrology Rules, 2011 which is punishable under Section 36(1) of the Legal Metrology Act and as provided under the Madhya Pradesh Legal Metrology Rules, 2011. Since the petitioner failed to deposit the compounding fee in compliance to the order dated 18.04.2022, a complaint has been filed before the Chief Judicial Magistrate, Dhar, who had issued notice to the petitioner and the date is fixed for 20.02.2023.

Counsel for the petitioner submits that imposition of compounding fee is contrary to schedule 10 of Rule 23 of MP Legal Metrology Rules, 2011. It is further submitted that the imposition of compounding fee is higher than the schedule and has been found to be illegal. In support of his submission, he has placed reliance over the judgment passed by the Bombay High Court in Criminal Application No.1230 of 2015 (Mrs. Guddi

Advani and Others vs. Deputy Controller of Legal Metrology and Others).

Per contra, counsel for the State raises the objection that the petitioner has approached this Court without approaching to the Magistrate who has issued the notice.

After hearing counsel for the parties and on perusal of the order-sheet of Chief Judicial Magistrate, Dhar, I find that the petitioner has approached this Court without filing reply to the notice issued by the said Magistrate. It would be open for the petitioner to raise all the legal objections regarding maintainability of the complaint and also the imposition of compounding fee. The Magistrate is directed to decide the objections if any filed by the petitioner in accordance with law before proceeding further in the matter.

With the aforesaid direction, present petition filed under Section 482 of the Code of Criminal Procedure, 1973, stands disposed of.

Certified copy, as per Rules.