
(2002) 02 MP CK 0004
In the Madhya Pradesh High Court
Case No : M. Cri. C. No. 95 of 2002

Raghuraj Singh

APPELLANT

Vs

State of M.P.

RESPONDENT

Date of Decision : 04-02-2002

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 451, 457
Penal Code, 1860 (IPC) — Section 279, 337, 338

Citation : (2003) 2 MPLJ 126

Hon'ble Judges : N.S. Azad, J

Bench : Single Bench

Advocate : K.S. Baghel, for the Appellant; Dinesh Joshi, Panel Lawyer, for State, for the Respondent

Judgement

N.S. Azad, J.

A perusal of certified copy of order dated 30th November, 2001, passed by Shri A.K. Pandey, Addl. Sessions Judge, Mauganj, Dist. Rewa, in Criminal Revision No. 219/2001, reveals that petitioner's application moved u/s 451, 457 of the Criminal Procedure Code for obtaining Truck No. M.P. 17/9811 (Tata 407) on Supurdgi, which appears to have been seized for offences punishable under sections 279, 337 and 338 of the Indian Penal Code in connection with Criminal Case No. 113/2000, was allowed by the learned J.M.F.C. Mauganj, subject to this condition that the petitioner would furnish either a bank guarantee worth Rs. 1 Lac or would deposit an amount of Rs. 1 Lac in Court. The petitioner challenged the aforesaid order in Criminal Revision, which stood disposed of in rejection on 22nd May, 2000.

Then, again on 21st April, 2001, the petitioner filed a fresh application on 21-4-2001, seeking Supurdgi of the aforesaid vehicle but the same was withdrawn by him on 23rd April, 2001. Thereafter, this petitioner filed a third application on 9th August, 2001, in the Court of J.M.F.C. seeking Supurdgi of the aforesaid vehicle, which again stood disallowed and rejected on the same day.

The petitioner challenged the aforesaid order of rejection dated 9th August, 2001 in Criminal Revision No. 219/2001, on the strength of *Siyaram Singh vs. State of M.P.*, reported in 2001(4) MPLJ 205 (SC) : 2000 (1) VB 74. The learned Addl. Sessions Judge, Mauganj, disallowed the petitioner's Criminal Revision No. 219/2001, on 30-11-2001 on the ground that since the earlier Criminal Revision filed by this petitioner on the same facts, stood disallowed on merits, the second revision petition was not maintainable.

In *N.D. Singhal Vs. State of M.P. and Others*, , a Division Bench of this Court issued the following directions:-

(1) The Criminal Courts are directed to see as and when the criminal case is brought before them arising out of the accident either by heavy vehicle or light vehicle or any three wheeler or two wheeler, they will ensure that the original policy of the insurance of the vehicle in question along with driving licence of the person concerned are seized and they shall not be released to the concerned persons unless the photocopies of the insurance policy as well as driving licence are deposited by the concerned accused persons.

(2) They shall also ensure that at the time of the delivery of the vehicle involved in the accident on suparatnama in the event of vehicle not insured then solvent security is obtained from the owner of vehicle in question or his agent and along with solvent security in case of heavy/light vehicle a cash security in a sum of Rs. 50,000/- per victim is taken or bank guarantee then alone they will release the vehicle in question on suparatnama. In case of insured vehicle they may obtain the current copy of the insurance policy and the driving licence.

(3) In case of two wheeler or three wheeler if it is not insured with the insurance company then in that case they will release the vehicle on suparatnama on obtaining solvent security along with cash security/Bank guarantee in the sum of Rs. 15,000/- per victim.

Thereafter, on examining the aforesaid directions, issued by this Court, it is found explained by Hon''ble the Supreme Court in *Siyaram Singh vs. State of M.P.* (supra) that-

We have no manner of doubt that such direction obviously takes away the discretion of the appropriate Court under different provisions of the Code, which cannot be taken away by observation of the High Court however beneficiary directions may be. In that view of the matter, we observe that the discretion of the appropriate Court under any provision of law is not fettered with the aforesaid directions."

The certified copy of the order dated 29th February, 2000, passed by the learned J.M.F.C. or the certified copy of the order dated 9th August, 2001, passed by the J.M.F.C. Mauganj, on petitioner's application seeking the vehicle on supurdgi shows that the same is not filed on behalf of the petitioner.

Since the delay or finality of any order does not defeat the remedy provided u/s

482 of the Criminal Procedure Code, this petition is allowed and the orders dated 29-2-2000 so also 9th August, 2001, passed by J.M.F.C. Mauganj, on petitioner's application seeking interim custody of the vehicle, are set aside. The learned J.M.F.C. Mauganj, is directed to reconsider both the applications of the petitioner dated 29-2-2000 and 9-8-2001 afresh, without taking into consideration the directions issued by this Court in N.D. Singhal vs. State of M.P. (supra).

This petition stands allowed with the aforesaid observation.