
(2013) 07 MP CK 0195
In the Madhya Pradesh High Court
Case No : M.Cr.C. No. 3289 of 2013

Rakesh Kumar Taneja

APPELLANT

Vs

State of M.P.

RESPONDENT

Date of Decision : 02-07-2013

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 279, 337, 338

Citation : (2013) 07 MP CK 0195

Hon'ble Judges : Brij Kishore Dube, J

Bench : Single Bench

Advocate : Rajeev Upadhyay and Mr. Arvind Sharma, for the Appellant; Pramod Pachauri, Public Prosecutor, for the Respondent

Final Decision : Disposed Off

Judgement

Brij Kishore Dube, J.—Heard on the question of admission and perused the record. This petition u/s 482 of Cr.P.C. is preferred by the petitioner herein/accused for quashing the criminal proceedings of Criminal Case No. 577/1990 pending before J.M.F.C., Gwalior.

2. Learned counsel for the petitioner submits that on the basis of report lodged in the year 1990, a case under Sections 279, 337 & 338 of IPC was registered at Police Station Madhoganj, District Gwalior against the petitioner and after completing the investigation, charge was framed in the year 1991. Since then, the criminal case is pending before the Trial Court on account of non-availability of the original record as it was sent on requisition to the District & Sessions Judge, Gwalior but not returned back. Learned counsel for the petitioner further submits that the case is pending since last 22 years, therefore, the criminal proceedings may be quashed. Learned counsel has relied upon a decision in the case of Common Cause A Registered Society through its Director Vs. Union of India (UOI) and Others, wherein, it has been held as under:-

2(f) Where the cases pending in Criminal Courts under IPC or any other law for

the time being in force are punishable with imprisonment upto three years, with or without fine, and if such pendency is for more than two years and if in such cases trial have still not commenced, the Criminal Court shall discharge or acquit the accused, as the case may be, and close such cases.

3. It is not out of place to mention here that the Constitutional Bench comprising of seven Judge of Hon''ble Apex Court in P. Ramachandra Rao Vs. State of Karnataka, after considering its earlier decisions i.e., Common Cause (supra), Raj Deo Sharma Vs. The State of Bihar, and Raj Deo Sharma Vs. The State of Bihar, held that the Court could not have prescribed the periods of limitation beyond which the trial of a criminal case or a criminal proceedings cannot continue and must mandatorily be closed followed by an order of acquittal or discharge of the accused.

4. In response, learned Public Prosecutor submits that the Trial Court may be directed to expedite the trial and dispose of the same.

5. It is apparent from a bare perusal of the record that the petitioner herein/ accused is facing a criminal trial before J.M.F.C., Gwalior bearing Criminal Case No. 577/1990 for the offence punishable under Sections 279, 337 & 338 of IPC since 1990. Vide order dated 08.05.2013, this Court ordered to call for a report from the concerned Trial Court as to why the matter is pending since 1990. The Trial Court vide its memo dated 23.05.2013 submitted that on account of non-availability of the original record, the trial is pending since 1990. It is further mentioned that the accused submitted an application on 27.02.2012 for closing the criminal case, which is still pending on account of non-availability of the original record.

6. The criminal proceedings initiated against the petitioner under Sections 279, 337 & 338 of IPC are pending before the Trial Court for a long period i.e., from the year 1990. Thus, in view of the nature of alleged offence and the fact that criminal trial is pending since 1990, the proceedings should be dropped and, therefore, this Court in exercise of powers u/s 482 of Cr.P.C. directs that the proceedings of Criminal Case No. 577/1990 pending before the J.M.F.C., Gwalior are quashed.

7. This petition is disposed of accordingly. Certified copy as per rules.