
(2014) 09 MP CK 0161
In the Madhya Pradesh High Court
Case No : CRR. 702/14

Ram Kishore Shukla

APPELLANT

Vs

Anil Agrawal

RESPONDENT

Date of Decision : 25-09-2014

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 156(3), 200, 397, 401
Prevention of Corruption Act, 1988 — Section 13(1)(e), 13(2), 19 (1)

Citation : (2014) 09 MP CK 0161

Hon'ble Judges : S.K. Palo, J;S.K. Gangele, J

Bench : Division Bench

Advocate : R.K. Sharma, Advocate for the Appellant; J.D. Suryavanshi, Special Public Prosecutor, Advocate for the Respondent

Final Decision : Dismissed

Judgement

1. The applicant has filed this revision u/s 397 read with Section 401 of Cr.P.C. assailing the order dated 25.02.2014 passed by the Special Judge under the Prevention of Corruption Act, 1988 in Miscellaneous Judicial Case No.13/2014 whereby the complaint filed by the applicant has been returned back to the complainant for filling the same after obtaining sanction for prosecution against the non-applicant/proposed accused persons.

2. Briefly stated that the applicant /complainant has filed a complaint u/s 200 Cr.P.C. against the proposed accused persons claiming that there has been abuse of the official position by the non-applicants and allegedly committed offence u/s 13(1)(e) and 13(2) of the Prevention of Corruption Act, 1988. The learned Trial Court by the impugned order held that the Special Court has to exercise jurisdiction on the complaint in terms of Section 200 Cr.P.C. without a valid sanction order u/s 19 (1) of the Prevention of Corruption Act, 1988 cannot order any investigation, against the public servants. It returned the complaint filed by the applicant with the observation that the complaint may be filled after obtaining proper sanction for prosecution.

3. Challenge has been made to impugned order by the present revision on several grounds, it is claimed that there is sufficient evidence of commission of offence u/s 13(2) of Prevention of Corruption Act read with Section 13(1)(e) by the respondents. The learned Trial Court ought to have taken cognizance since there was no objection by the accused persons. On the material available in the record, the learned Trial Court could have taken cognizance. But the learned Trial Court failed to appreciate the same. Therefore, it is requested by the applicant that the impugned order be set-aside and the learned Trial Court be directed to hold enquiry by himself or to get it enquired by Superintendent of Police, Economic Offence Bureau or by the Investigation Bureau.

4. Heard the counsels for rival parties.

5. In Anil Kumar and Others Vs. M.K. Aiyappa and Another, the Hon''ble Supreme Court had the occasion to examine the legal position that whether the requirement of sanction is a precondition for ordering the investigation u/s 156(3) Cr.P.C., even at a pre-cognizance stage. It would be pertinent to mention here that a Special Judge for this purpose is deemed to be vested with the power of Magistrate while considering the case to refer for investigation u/s 200 Cr.P.C., or 156(3) Cr.P.C., it cannot refer the matter against the public servant without a valid sanction order.

6. In view of the above, the law on the issue of sanction can be summarized to the effect that the question of sanction is of paramount importance for protecting a public servant who has acted in good faith while performing his duty. In order that the public servant may not be unnecessarily harassed on a complaint of an unscrupulous person, it is obligatory on the part of the executive authority to protect him. Reference can be made in this regard to decision rendered in General Officer Commanding Vs. CBI and Another,

7. On the basis of the principles laid down by the Hon''ble Supreme Court in the above judgments we are not inclined to admit this revision. Therefore, this revision is dismissed.