
(2011) 03 MP CK 0048
In the Madhya Pradesh High Court
Case No : M. Cr.C. No. 10167 of 2010

Ramkishun Tiwari

APPELLANT

Vs

State of Madhya Pradesh

RESPONDENT

Date of Decision : 11-03-2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 428
Penal Code, 1860 (IPC) — Section 304A, 337

Citation : (2011) 03 MP CK 0048

Hon'ble Judges : M.A Siddiqui, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

M.A. Siddiqui, J.—This petition u/s 482 of Code of Criminal Procedure has been filed by the Petitioner to invoke the extra ordinary powers of this Court to quash the proceedings of Criminal Case No. 126/2007 pending before JMFC, Panna (State v. Ram Kishun Tiwari) for alleged offence u/s 304A and 337 of IPC.

2. In brief, the prosecution case is that Petitioner was Sarpanch of Village-Kakra. He was given task of constructing the over hand tank of water, he used inferior and rubbish material in the construction and due to collapse of this water head tank, Janki Lodhi, Aman Singh, Hakke Dhimar, Vijay Singh and Indrapal died and several other persons sustained injuries for which report was lodged at PS-Amanganj on which Crime No. 66/04 -2 -was registered under Sections 304A and 338 of IPC against the Petitioner.

3. Learned Counsel for Petitioner submits that Tank was not fully prepared, Petitioner was busy in marriage of his son and was out of village, in the meanwhile, some miscreants filled water in the unfinished tank which collapsed and unfortunately so many persons died and several others got injuries, but it cannot be said that tank was not properly constructed and Petitioner alone is not responsible. The tank was to be constructed under the supervision and on the plan of Sub-Engineer, etc.

4. Learned Counsel for the State submitted that no interference is called for in this petition.

5. As far as involvement of other persons is concerned, that may be agitated before the trial Court, but on the ground that other persons are also responsible, responsibility of Petitioner cannot be minimized. As far as quality of construction is concerned, criminal proceedings are pending in which charge has been framed u/s 304A and 337 of IPC.

6. As far as exercise of powers u/s 482 Code of Criminal Procedure are concerned, according to Zandu Pharmaceutical Works Ltd. and Others Vs. Md. Sharaful Haque and Others, the -3 -Apex Court held that inherent jurisdiction, though wide has to be exercised sparingly, carefully and with caution and only when such exercise is justified by the tests specifically laid down in Section 482 Code of Criminal Procedure Power to be exercised ex debito justitiae to prevent abuse of process of Court, but should not be exercised to stifle legitimate prosecution. If on consideration of the allegations in the light of the statement made on oath of the complainant, it appears that the ingredients of the offence or offences are disclosed and there is no material to show that the complaint is mala fide, frivolous or vexatious, the proceedings cannot be quashed as they are to be enquired into by the trial Court.

7. So, looking to the above circumstances of the case, I find no ground to invoke the extra ordinary jurisdiction of this Court u/s 482 Code of Criminal Procedure Petition being devoid of merits is hereby dismissed.