
(2016) 02 MP CK 0087
In the Madhya Pradesh High Court
Case No : M.Cr.C. No. 9457 of 2015

Rubabuddin

APPELLANT

Vs

State of Madhya Pradesh and others

RESPONDENT

Date of Decision : 29-02-2016

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 147, 186, 189, 294, 353, 506

Citation : (2016) 1 MPWN 363

Hon'ble Judges : Alok Verma, J.

Bench : Single Bench

Advocate : Ashutosh Surana, Advocate, for the Appellant; Milind Phadke, Advocate, for the Respondent

Final Decision : Disposed Off

Judgement

Alok Verma, J.—This application under Section 482 Cr.P.C. is filed for quashment of FIR arising out of Crime No.62/2009 registered at Police Station Nagda, District Ujjain under Sections 294, 186, 189, 353, 147 and 506 of IPC.

2. According to the prosecution story, the incident took place on 29.01.2009 at about 10.30 p.m. The complainant was posted on the post of Sub-Inspector, Police Station Nagda, District Ujjain. On 29.01.2009, on instructions of his senior officers, he went to village Jhirniya along with police force of Police Station Birlagram Nagda. According to the complainant, he was instructed to take action against the persons, against whom permanent warrants and warrants were issued. Also action was to be taken against persons selling a contraband liquor, contraband arm and under Gambling Act. He went to village Jhirniya in search of the present applicant Rubabuddin, who was also an accused in Crime No.55/2009 under Sections 452, 386 and 506, 34 of IPC and another person Altaf against whom permanent warrant was issued. When they reached the residence of the present applicant, he came on the balcony and then started using abusive language and called various villagers and with help of all the

villagers, he tried to create obstruction in performance of their official duties. He also threatened that he would kill himself and implicate them in a false case. On the facts stated above, the crime was registered by Police Station Nagda.

3. The present application is filed on the ground that the present applicant filed a writ petition bearing No.06/2007 before the Hon''ble Apex Court in which CBI investigation was directed in the case of murder of applicant's brother Sohrabuddin and his wife Kausarbi. It is alleged by the present applicant that Director General of Police, Gujarat, P.C. Pandey came to Ujjain and in conspiracy with the Manmeet Singh Narang, who was the then Superintendent of Police, Ujjain, they made up a false case against the present applicant.

4. According to the applicant, he made a written complaint against the action taken by the police and on which an enquiry was made. The enquiry report is filed as Annexure P-5, in which it was found that DGP, Gujarat P.C. Pandey came to Ujjain on 27.01.2009 on the pretext of performing a Puja at Mahakal Temple, Ujjain, and thereafter, in connivance with the then S.P., Manjeet Singh Narang, a false case was registered against the present applicant.

5. Admittedly, the present applicant is a petitioner before the Supreme Court where investigation was done in compliance of the direction issued by the Hon''ble Apex Court, senior IPS officials of Rajasthan and Gujarat were arrested by the Police. It is also admitted that on the direction of Hon''ble Apex Court, the present applicant was given a protection by the Police.

6. Learned counsel for the applicant submits that as it was found in the enquiry that the case is false, the same should be quashed.

7. Learned counsel for the State, however, opposes on the ground that it is matter of evidence. The enquiry conducted by senior officials of Police on the direction issued by the Home Minister was not part of the investigation. Presently, charge-sheet had already been filed. The averments in the FIR are clear and a cognisable offence has been made out against the present applicant, and therefore, the FIR cannot be quashed.

8. I have gone through the FIR in question and also the relevant documents and copies of charge-sheet filed by the present applicant and also the enquiry report filed as Annexure P-5 by the applicant, it is true that in the enquiry, it was found that on the behest of Director General of Police, Gujarat Shri P.C. Pandey, the present applicant was falsely implicated in the case, however, such enquiry was not part of the investigation, and therefore, merely on the basis of such enquiry the FIR cannot be quashed. Though, the present applicant is at liberty to file the aforesaid enquiry report while adducing the defence evidence and also call the concerning officials, who made the enquiry and prepare the report. At present, no case for quashment of FIR is made out.

9. With liberty as aforesaid, this application under Section 482 Cr.P.C. is disposed of.