
(2013) 09 MP CK 0048
In the Madhya Pradesh High Court
Case No : M.Cr.C. No. 1019 of 2010

Salim Khan

APPELLANT

Vs

State of Madhya Pradesh and Another

RESPONDENT

Date of Decision : 26-09-2013

Acts Referred:

Citation : (2013) 09 MP CK 0048

Hon'ble Judges : N.K. Gupta, J

Bench : Single Bench

Advocate : Deepak Okhade, for the Appellant; R.N. Yadav, Panel Lawyer for Respondent No. 1/State and Shri A.D. Mishra, Counsel, for the Respondent

Final Decision : Allowed

Judgement

N.K. Gupta, J.—The applicant has preferred the present revision u/s 482 of Cr. P.C. to quash the FIR lodged by the respondent No. 2, which is registered at Crime No. 281/09 at Police Station Kotwali, Mandla by which the offences punishable under Sections 294, 506 & 452 of IPC were registered against the applicant. Facts of the case, in short are that, the applicant was serving as a junior engineer in M.P.S.E.B. Initially, on 15.1.2009 an inspection was done in the house of the respondent No. 2 and it was found that various insulation seals of the electric meter were found damaged and a case of energy theft was prepared. The respondent No. 2 objected the preparation of the matter and he reached before the higher officers of Madhya Pradesh Poorv Kshetra Vidyut Vitran Company Limited, Mandla. He had also moved before the consumer forum, Mandla. Ultimately, his connection was disconnected. On 9.4.2009, he sent a complaint to the S.P. Mandla that on 24.3.2009, the applicant entered into his house and he abused the respondent No. 2 but the respondent No. 2 was not present in the house therefore, he abused with obscene words and gave threat to the ladies present in the house of the respondent No. 2 and also he pushed the ladies. It was also mentioned that a report was sent to S.H.O. Kotwali, Mandla on 24.3.2009. The S.P. Mandla sent that report to the S.H.O. Kotwali and therefore,

a case was registered.

2. After considering the submissions made by learned counsel for the parties and looking to the facts and circumstances of the case, it is apparent that the applicant made a case relating to the theft of the energy against the respondent No. 2 and ultimately, his connection was disconnected. The respondent No. 2 moved before the consumer forum. However, according to his own document, he gave a notice to the higher authorities and the electricity distribution company that he was ready to deposit the entire amount of Rs. 66,000/-. Under such circumstances, it appears that prima facie, a case prepared by the applicant was correct. In this connection, there are two important flaws in the FIR filed by the respondent No. 2. Firstly, that a notice sent by the respondent No. 2 through his advocate to the applicant on 21.3.2009 (the document No. 9 filed by the respondent No. 2) that he violated the order passed by the consumer forum and that notice was given on 21.3.2009 therefore, it is apparent that the electricity connection of the respondent No. 2 was disconnected on 21.3.2009. Thereafter, there was no need for the applicant to visit the house of the respondent No. 2. If he was interested to give any threat to the respondent No. 2 then, he would have visited in presence of the respondent No. 2. According to the document (Annexure-P/2), a news was published on 21.1.2009 that the applicant inspected various connections and the theft of electricity energy for a sum of Rs. 10/- lakhs was traced by the applicant. Under such circumstances, neither it was possible for the applicant to go to house of each such persons and threat them nor it was required for the applicant to contact such consumers after making the case and therefore, the conduct alleged in the FIR appears to be unnatural and hypothetical. There was no need to the applicant to visit the house of the respondent No. 2, when he was supported by his superior officer.

3. Secondly, an FIR sent to the S.P. Mandla by the respondent No. 2 was sent with the delay of at least 16 days. In the alleged FIR (the document 11 filed by the respondent No. 2), it is mentioned that the FIR dated 24.3.3009 lodged at Police Station Kotwali, Mandla was annexed with the FIR sent to the S.P. but neither the copy of such FIR was submitted before this Court nor was annexed with the FIR sent to the S.P. concerned and no copy of such an FIR is shown. When it was inquired from the case diary then, a typed letter was found annexed with the FIR sent to the S.P. and that typed letter was addressed to S.H.O. Kotwali, but neither the respondent No. 2 appended his signature on that letter nor any receipt is shown on that paper so that it can be said that on 24.3.3009, any FIR was lodged before the S.H.O. Kotwali, Mandla and therefore, the FIR lodged by the respondent No. 2 to the S.P. was highly delayed. It was not established that the respondent No. 2 sent any FIR to S.H.O. concerned. When the respondent No. 2 was taking every steps against the applicant to file a case then, he could have sent a notice to the applicant through his counsel or he could have sent a complaint to the higher officers of the applicant or the FIR should have been lodged on the same day. Under such circumstances, looking to the conduct of the respondent No. 2 that, he did not lodge any FIR at Police Station

Kotwali, Mandla but he prepared a typed document to show that he sent an FIR to the Police Station, Mandla and by that apprehension, the S.P. Mandla directed to register a case.

4. On the basis of aforesaid discussion, prima facie, it is apparent that the respondent No. 2 had lodged a fake FIR against the applicant, whereas no such incident took place in the house of the respondent No. 2. Such fake FIR was sent to harass the applicant because due to activity of the applicant, the respondent No. 2 was liable to deposit a sum of Rs. 66,000/- before the higher authorities of the applicant and the FIR was sent only to harass the applicant. If a public servant, who does his duty in a firm and sincere manner then, he should not be permitted to be harassed by lodging such an FIR against him otherwise, no public servant would be interested to do his duty against such consumers. Under such circumstances, it is a fit case in which the FIR lodged by the respondent No. 2 may be quashed.

5. Consequently, the petition u/s 482 of Cr. P.C. filed by the applicant is hereby allowed. The FIR registered at Crime No. 281/09 at Police Station Kotwali, Mandla is hereby quashed and hence, if any proceeding is pending before any Magisterial Court then, that proceeding is also quashed. Copy of the order be sent to the C.J.M. Mandla, so that it may be provided to the trial Court, if any charge sheet is filed relating to Crime No. 281/09 registered at Police Station Kotwali, Mandla for information and compliance.