
(2019) 02 MP CK 0086
In the Madhya Pradesh High Court
Case No : Writ Petition No. 107 Of 2019

Sanjay Sanju Singh

APPELLANT

Vs

State Of Madhya Pradesh

RESPONDENT

Date of Decision : 25-02-2019

Acts Referred:

Code of Criminal Procedure, 1973 — Section 110

Indian Penal Code, 1860 — Section 506

Madhya Pradesh Rajya Suraksha Adhiniyam, 1990 — Section 5(b)

Citation : (2019) 02 MP CK 0086

Hon'ble Judges : Atul Sreedharan, J

Bench : Single Bench

Advocate : Vivek Shukla, Madhur Shukla

Final Decision : Dismissed

Judgement

The present petition has been filed by the petitioner being aggrieved by order dated 17.12.2018 passed by the respondent No.2, whereby the statutory appeal under Madhya Pradesh Rajya Suraksha Adhiniyam, filed by the petitioner herein was dismissed by the respondent No.2 thereby affirming the order of externment dated 12.10.2018 passed by the respondent No.3 by which the petitioner was externed from the municipal limits of District Sidhi for the period of eight months.

Learned counsel for the petitioner has submitted that the reasons given by the authorities below having been considered by this Court earlier in similar cases, where this Court has held that it is inadequate for the authority to merely reiterate the provisions of statute and instead, they must give specific instances with regard to the persons who were not willing to appear as witnesses before the trial Court against the petitioner. Learned counsel for the petitioner has submitted that no such specific names of the witnesses have been given in this case and therefore, the impugned order is bad in law.

Per contra, learned Govt. Advocate for the respondents/State has drawn attention of this Court to the statement of witnesses recorded by the District

Magistrate during the course of externment proceedings. Witness No.3 is one Jitendra Singh, who says that in the year, 2008 there was altercation between this witness and the petitioner on account of which a case was registered against the petitioner, which was subsequently compromised by both the parties. Witness No.4 is Rajendra Prasad Dubey, who stated before the District Magistrate that he is helper in the Electricity Department and in the year 2010 when he was returning from work, he was stopped by the petitioner and his friends who beat him. He says that he had suffered injuries on account of which he reported to the police. Lastly, this witness says that presently he has no quarrel with the petitioner. Witness No.5 is Sudhir Singh who is a farmer. He says that he knows the petitioner very well and incident was happened with him in the month of March 2016, when the petitioner's cattle were grazing on the field of the witness who objected the same upon which the petitioner and his brother are stated to have assaulted this witness. On account of which, he received several injuries. He further states that on account of the injuries he received, on his left hand and his ear are not functioning properly even today. He says that he had given a report to the Police Thana, Kotwi, District Sidhi. Lastly he says that the petitioner is a hooligan and the people of village are afraid of him. He has been cross-examined by the learned counsel for the petitioner and precious little has been brought out by way of contradiction in the statement of this witness before the District Magistrate. The record of the petitioner's case is at page 26, which is part of the order passed by the District Magistrate, Sidhi on account of which the petitioner was externed.

Learned counsel for the petitioner has referred to the list and stated that except from the case at serial No.5, which is of the year 2016, the petitioner has been acquitted in the remaining four cases. Out of the remaining four cases he has been acquitted, one of them was on merits and remaining three cases were on the basis of compromise affected between the petitioner and the complainant of those cases. The sixth case relates to prohibitory proceedings initiated against the petitioner under section 110 of the Cr.P.C. All the offences from serial Nos. 1 to 5 are under Chapter XVI of the IPC and under Section 506. These are the offences for which a person can be externed under Section 5(b) of the M.P. Rajya Suraksha Adhiniyam. The fact that three or four cases in which the petitioner has been acquitted has been brought about by way of compromise itself raises a strong suspicion that the petitioner may have brought himself to bear upon the complainant and the witnesses in those cases to withdraw the cases against him. Moreover, in the light of statement of witness No.5, who is also the complainant in the case No.274/2016, wherein the witness has categorically stated that the main profession of the petitioner is Gundagardi, the same cannot be overlooked.

Learned counsel for the petitioner has placed before this Court a judgment passed in W.P. No.29547/2018 dated 19.02.2019 and according to the learned counsel for the petitioner in identical situation, the proceeding against the petitioner in that case was quashed by this Court. However, on going through the factual aspects of that case, it appears that the cases against the petitioner in

W.P. No.29547/2018, ended in an acquittal not on account of any kind of compromise between the petitioner of that case and the complainant but, it were cases where the witnesses have testified before the Court in support of the prosecution yet on merits the petitioner was acquitted. In this case, the facts are completely different. Out of the four cases in which the petitioner has been acquitted, one case is on merits where the witnesses have not turned hostile and in three other cases, the petitioner has been acquitted on account of a compromise between the parties. Thereafter, learned counsel for the petitioner has also placed before this Court the judgment of this court in Kala Vs. State of M.P. and another 2004 (4) M.P.L.J. 234 and Ashok Kumar Patel Vs. State of M.P. and others, 2009 (4) M.P.L.J. 434 , wherein this Court has held on point of law that merely parroting the provisions of Section 5(b) of the Rajya Suraksha Adhiniyam would be inadequate to sustain an order of externment and the District Magistrate would be required to give the description and names of those witnessess who are not coming forward to support the accusation made by them against the person sought to be externed. Learned counsel for the petitioner has also placed before this Court the order in Ashu @ Assu @ Ashish Jain @ Ankush Vs. State of M.P. and others 2011 (3) M.P.L.J . 367 in which the learned counsel for the petitioner submits that here also the Court had quashed the proceedings against the petitioner, even though, the acquittal of the petitioner was on the basis of compromise between the parties.

Be that as it may, in the facts and circumstances of this case, especially the statements of the witnesses which have been annexed hereto at pages 22 to 24 and specifically the statement of witness No.5, which goes to show the nature and the characteristic quality of the petitioner, the said order cannot be stated to be perverse based upon inadequate material.

Under these circumstances, this petition fails and it is dismissed.