

(2019) 09 MP CK 0033

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No. 28725 Of 2019

Seetaram Raghuvanshi

APPELLANT

Vs

State Of Madhya Pradesh

RESPONDENT

Date of Decision : 19-09-2019

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 482

Indian Penal Code, 1860 — Section 34, 279, 307

Scheduled Castes And Scheduled Tribes (Prevention Of Atrocities) Act, 1989 — Section 3(2)(v)

Evidence Act, 1872 — Section 27

Citation : (2019) 09 MP CK 0033

Hon'ble Judges : Rajeev Kumar Shrivastava, J

Bench : Single Bench

Advocate : Sushil Goswami, Sumit Mishra

Final Decision : Dismissed

Judgement

Petitioner has filed this petition under Section 482 of Cr.P.C. for quashing First Information Report No.327/2016 under Sections 279, 307, 34 of IPC and Section 3(2)(v) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act and entire consequential proceedings pending.

Learned counsel for the petitioner submits that the petitioner has not committed any offence. He has been falsely implicated only on the basis of memorandum of co-accused Chain Singh under Section 27 of the Evidence Act. The statement of co-accused Chain Singh was recorded under Section 27 of the Evidence Act is not admissible against the petitioner. It is further submitted that FIR was lodged by the complainant, wherein, name of the petitioner has not been reflected in the FIR as well as statement under Section 161 of Cr.P.C. Due to previous enmity, the petitioner has been falsely implicated in the case. Hence, prima facie, no offence is made out against the petitioner. Learned counsel for the petitioner relying on the judgments in the cases of Bhoorelal vs. State of M.P., [2008 (2) M.P.L.J. (Cri.) 271] and Gajju alias Gajendra Singh Vs. State of M.P. passed in

Cr.R.No.410/2013 decided on 28.04.2014 submits that only on the basis of memorandum of co-accused under Section 27 of the Evidence Act, petitioner cannot be made accused in this case. Hence, prayed that First Information Report No.327/2016 registered by Police Station Basoda Dehat, District Vidisha under Sections 279, 307, 34 of IPC and Section 3(2)(v) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act and entire consequential proceedings be quashed. However, learned counsel for the petitioner in alternative has submitted that a direction for fair investigation be issued to the respondent No.1/State.

Learned Panel Lawyer for the respondent No.1/State opposed the prayer and submitted that the offence has been registered against the petitioner under Sections 279, 307, 34 of IPC and Section 3(2)(v) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act. The investigation is still pending. It is further submitted that Test Identification Parade of the petitioner is to be conducted. Hence, he prayed for rejection of the petition filed under Section 482 of Cr.P.C..

I have considered rival contentions of the parties and perused the documents available on record.

It is trite law that appreciation of evidence, probability of allegations made in the FIR and the defence raised by the person accused of the offence cannot be gone into by this Court in a proceeding under Section 482 of Cr.P.C.. The law regarding proceedings under Section 482 of Cr.P.C. was considered by the Hon'ble Supreme Court in *Padal Venkata Rama Reddy alias Ramu vs. Kovvuri Satnarayana Reddy and Others*, [(2011) 12 SCC 437], and it was held as under :

"?11. Though the High Court has inherent power and its scope is very wide, it is a rule of practice that it will only be exercised in exceptional cases. Section 482 is a sort of reminder to the High Courts that they are not merely courts of law, but also courts of justice and possess inherent powers to remove injustice. The inherent power of the High Court is an inalienable attribute of the position it holds with respect to the courts subordinate to it. These powers are partly administrative and partly judicial. They are necessarily judicial when they are exercisable with respect to a judicial order and for securing the ends of justice. The jurisdiction under Section 482 is discretionary, therefore the High Court may refuse to exercise the discretion..."

In view of the aforesaid discussion, no interference with regard to quashing the FIR as well as entire consequential proceedings is warranted. The petition filed under Section 482 of Cr.P.C. is accordingly dismissed.