
(2013) 09 MP CK 0056
In the Madhya Pradesh High Court
Case No : Criminal Revision No. 552 of 2013

Shyambabu

APPELLANT

Vs

State of M.P. and Another

RESPONDENT

Date of Decision : 02-09-2013

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 34, 397, 401
Penal Code, 1860 (IPC) — Section 34, 467, 468

Citation : (2013) 09 MP CK 0056

Hon'ble Judges : Brij Kishore Dubey, J

Bench : Single Bench

Advocate : Pawan Kumar, for the Appellant; Mukund Bhardwaj, Public
Prosecutor for Respondent No. 1/State, for the Respondent

Final Decision : Dismissed

Judgement

Brij Kishore Dubey, J.—Heard on the question of maintainability and perused the record. This Criminal Revision under Sections 397 and 401 of the Code of Criminal Procedure, 1973 is preferred against the judgment of conviction and order of sentence dated 28/06/2013 passed by X Additional Sessions Judge, Gwalior in Criminal Appeal No. 17/12 whereby the petitioner herein, Shyambabu/accused has been convicted under Sections 467 read with 34 & 468 read with 34 of IPC and sentenced in each offence to suffer 03 years rigorous imprisonment with fine of Rs. 5,000/-.

2. Learned counsel for the petitioner submits that surrender of the petitioner is not necessary to entertain the present revision petition by this Court, therefore, this revision petition is maintainable. In this regard, he relied upon the judgment of the Apex Court in the case of (2000) 10 SCC 346

3. Learned Public Prosecutor submitted that as per the Rules and Orders of the Madhya Pradesh High Court, it is mandatory that the petitioner has to surrender first before the Court below.

4. Admittedly, the petitioner has not surrendered to the custody before the Court below and instead filed the present revision petition without declaration to the effect that he is in custody or the sentence was suspended by the Court below.

5. This Court in the case of Deepak Sahu & others Vs. State of M.P., Cr. Revision No. 32/12 decided on 02/02/2012 considered the question after considering the judgment in the case of Bihari Prasad Singh (supra) and other relevant Rules and the law on the subject and held that the revision against the conviction is tenable when it contains a declaration to the effect that the accused is in custody or surrendered after his conviction except in cases where the sentence has been suspended by the Court below itself.

6. In view of the decision already rendered by this Court in the case of Deepak Sahu & others (supra) on the point of maintainability of the revision petition, the present Criminal Revision is not maintainable and, therefore, it has to be and hereby dismissed. Certified copy as per rules.