
(2012) 09 MP CK 0052
In the Madhya Pradesh High Court
Case No : Writ Petition No. 8709 of 2007

S.K. Tiwari

APPELLANT

Vs

State of M.P. and Others

RESPONDENT

Date of Decision : 18-09-2012

Acts Referred:

Penal Code, 1860 (IPC) — Section 120B, 307, 324, 34, 354

Citation : (2012) 09 MP CK 0052

Hon'ble Judges : R.S. Jha, J

Bench : Single Bench

Advocate : Ghan Shyam Pandey, for the Appellant; R.P. Tiwari, Learned Govt. Advocate for the State, Shri Ashok Lalwani, Learned Counsel for the Respondent No. 6 and Shri J. Prasad, Learned Counsel for the respondent No. 7, for the Respondent

Final Decision : Dismissed

Judgement

R.S. Jha, Judge

1. Heard on the question of admission. The petitioner has filed this petition praying for a direction to the respondent authorities to take action on the complaint filed by the petitioner against respondent Nos. 6, 7 and 8 as it is alleged that the said respondents are responsible for committing an offence under Sections 307/34, 324 and 120B of I.P.C.

2. The aforesaid submission is made on the basis of an incident that occurred on 06.12.06 at 6.00 P.M. wherein the petitioner who had been called by the wife of respondent No. 6 to Civic Centre, Marhatal, Jabalpur was brutally beaten up by respondent Nos. 6, 7 and 8 and other unknown persons and thereafter forcibly made to swallow sleeping pills/some poisonous substance as a result of which the petitioner was immediately required to undertake medical treatment at Victoria Hospital and thereafter at National Hospital, Jabalpur from where he was referred to Nagpur for treatment. It is submitted that inspite of a specific complaint being made by the petitioner in this regard to the police authorities, no

FIR has been registered nor any steps have been taken towards conducting an enquiry by the respondent authorities with a view to protect respondent No. 6, who is working as Assistant Sub-Inspector in the Police Department, who had been transferred from Bargi on the complaint of the petitioner and therefore he had hatched a conspiracy against him.

3. Pursuant to the notices having been issued, the respondent/State has filed a return. In their return it is submitted that immediately on receiving the complaint by the police, the Superintendent of Police, Jabalpur has ordered an enquiry into the allegations which was conducted by the City Superintendent of Police, Omti, who submitted a report on 02.02.07 in which it was stated that an FIR at Crime No. 648/08 u/s 354 of I.P.C. was registered against the petitioner on a complaint being made by Smt. Anju Singh Yadav at Marhatal Police Station on 06.12.06 in which it was alleged that the petitioner who had previously known the complainant, who is the wife of respondent No. 6, had tried to molest her at Civic Centre, Jabalpur. However, on her making a hue and cry, persons who were present on the spot caught hold of the petitioner and beat him up. It is stated that during the enquiry, statements of respondent No. 7, Ramanand @ Laddu Swami, respondent No. 8 Jitendra Patel and several other persons including Basant, s/o Shiv Kumar Patel, resident of Sanjeevani Nagar, Jabalpur, who has his business near the spot of the incident, were recorded and all those persons have stated that the petitioner had tried to molest Smt. Anju Singh Yadav who raised a hue and cry, pursuant to which the petitioner had been caught and beaten up by the by-standers. On the basis of aforesaid information collected by the City Superintendent of Police, Omti, in which statements of several persons including that of the petitioner were also recorded, a report was submitted to the Superintendent of Police, Jabalpur on 02.02.2007.

4. The learned Govt. Advocate appearing for the respondent/State submits that nothing further survives for adjudication in the matter as proper action in the matter has been taken in accordance with law.

5. The Learned Counsel appearing for the respondent Nos. 6 and 7 submits that the writ petition is totally misconceived and has been filed on the basis of false and incorrect statements. It is further submitted that the writ petition is not maintainable in view of the decision of the Supreme Court in the cases of Aleque Padamsee and Others Vs. Union of India (UOI) and Others, Sakiri Vasu Vs. State of U.P. and Others, , and Divine Retreat Centre Vs. State of Kerala and Others, and therefore the petition filed by the petitioner be dismissed.

6. I have heard the Learned Counsel for the parties at length. On a perusal of the facts available on record as well as the return filed by the state it is apparent that the grievance of the petitioner regarding inaction on the part of the police authorities on the complaint filed by the petitioner is factually incorrect as the police authorities had immediately conducted an enquiry into the matter and after making an enquiry a report was submitted by the City Superintendent of Police, Omti on 02.02.07, in which the complaint filed by the petitioner was found

to be incorrect and baseless. In view of the aforesaid facts and circumstances, as steps have been taken by the police authorities, I do not find any reason to issue the direction as prayed for by the petitioner. The petition being misconceived is accordingly dismissed.