

**IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR**

BEFORE

HON'BLE SHRI JUSTICE ANAND PATHAK

&

HON'BLE SHRI JUSTICE HIRDESH

ON THE 5th OF SEPTEMBER, 2024

WRIT APPEAL NO. 2007 of 2024

AMIT TRIPATHI

Vs.

STATE OF MADHYA PRADESH & ORS.

APPEARANCE:

Shri Shyam Sharma – Advocate for the petitioner.

Shri A.K. Nirankari – Government Advocate for the respondents/State.

ORDER

Per: Justice Anand Pathak

1. The present appeal under Section 2 of the Madhya Pradesh Uchcha Nyayalaya (Khand Nyaypeeth Ko Appeal) Adhiniyam, 2005 is preferred by the appellant/petitioner being crestfallen by the order dated 31-08-2024 passed by learned Single Judge in Writ Petition No.25072 of 2024 whereby the writ petition filed by the appellant has been dismissed.
2. Precisely stated facts of the case are that appellant filed a complaint against respondent No.4 in relation to his illegal and arbitrary acts of entering into his house and misbehaving with his family members. Since the complaint of appellant remained unheeded, therefore, he preferred writ petition bearing No.25072 of 2024

seeking the relief in relation to taking appropriate criminal action against respondent No.4 and not initiating any criminal proceedings against him. Said writ petition was dismissed, therefore, appellant is before this Court.

3. It is the submission of learned counsel for the appellant that the act of respondent No.4 is against the law as without having any valid reason and permission, he entered into his house and misbehaved with his family members, therefore, suitable action should be taken against him. It is further submitted that respondents be further directed not to register any criminal case against him. Learned Single Judge did not consider plight of the appellant and material aspects of the matter and dismissed the writ petition. Thus, prayed for setting aside the impugned order.
5. On the other hand, learned counsel for the respondents/State submits that the appellant has alternative remedy to the relief sought by him. Appellant can move to the concerned Magistrate to redress his grievances.
6. Heard.
7. This is the case where petitioner is seeking two fold reliefs i.e. respondents be directed not to register any case against him and another; appropriate criminal action be taken against respondent No.4 for the alleged act of illegally entering into his house and misbehaving with his family members.
8. The relief in relation to not registering any case against the appellant is barred by law. No injunction can be granted to restrain any person from instituting or prosecuting any proceedings in a criminal matter. Thus, this Court can not injunct the authority to file any criminal case against the petitioner/appellant and

understandably so because as per Section 41(d) of the Specific Relief Act, 1963, no such injunction can be given. Section 41(d) of the Specific Relief Act reads as under:

“41. Injunction when refused.—

An injunction cannot be granted—

(a) xx xx xx

(b) xx xx xx

(c) xx xx xx

(d) *to restrain any person from instituting or prosecuting any proceeding in a criminal matter.”*

9. From perusal of record, it appears that petitioner is facing wrath of some criminal proceedings and recently he has been granted bail. If appellant is aggrieved by any of the alleged action of respondent No.4, then it is apposite that he should approach the concerned Magistrate for ventilation of his grievances by preferring a private complaint or any other proceedings, as advised so. Law declared by the Apex Court in the case of **Sudhir Bhaskarrao Tambe Vs. Hemant Yashwant Dhage (2016) 6 SCC 277** and the judgment of Division Bench of this Court in the case of **Shweta Bhadoria Vs. State of M.P. and Ors., 2017 (1) MPLJ (Cri) 338** indicates so.
10. In the considered opinion of this Court, learned Single Judge did not commit any error in dismissing the writ petition preferred by the appellant. Hence, no case for interference is made out. Appellant may avail the alternative remedy as discussed above.
11. Writ appeal stands **dismissed**.

(ANAND PATHAK)
JUDGE

(HIRDESH)
JUDGE