

HIGH COURT OF MADHYA PRADESH: BENCH AT INDORE

BEFORE HON.MR. JUSTICE ALOK VERMA, JUDGE

Criminal Revision No.1327/2015

Dr. Rajkumar Gupta S/o Kashiram Gupta

Vs.

Mohanlal S/o Bhanwarlal Gupta

O R D E R

Post for 26.11.2015

**(ALOK VERMA)
JUDGE**

HIGH COURT OF MADHYA PRADESH: BENCH AT INDORE

BEFORE HON.MR. JUSTICE ALOK VERMA, JUDGE

Criminal Revision No.1327/2015

Dr. Rajkumar Gupta S/o Kashiram Gupta

Vs.

Mohanlal S/o Bhanwarlal Gupta

Shri Abhay Saraswat, learned counsel for the applicant.

O R D E R

(Passed on this 26th day of November, 2015)

This Criminal Revision filed under Section 397 read with Section 401 of Cr.P.C. is directed against the order passed by the learned First Additional Sessions Judge-Mandsaur, in Sessions Trial No.84/2015 dated 03.09.2015 whereby the learned Additional Sessions Judge framed charges against the applicant under Sections 420, 468 of IPC.

The brief facts giving rise to this revision are that the present applicant is a government

Ayurvedic doctor. He is posted in village Afzalpur till 1995-96. His wife is also a government teacher. The applicant submitted a certificate to his higher authorities that after three children, his wife had undergone L.T.T. operation on 29.12.1983, and also he applied to the higher authorities that as per the rules prevailing at the relevant time, he was entitled for one increment of Rs.30/- per month. After considering his application, the additional increment was granted, thereafter, a complaint was lodged against him under Sections 420, 468 by the complainant. The complaint was dismissed on 24.10.2011. After that the complainant filed a revision against the order of dismissal before the 4th Additional Sessions Judge, Mandsaur and the revisional court remanded the matter back to the trial court with a direction to enquire the matter additionally and then pass an appropriate order. By the order dated 10.02.2012, cognizance was taken by the Magistrate and a bailable warrant was issued against the present applicant. This order was challenged by revisional court in criminal

revision No.71/2012. The revisional court dismissed the matter and then the applicant filed an application before this Court under Section 482 Cr.P.C. This application was disposed of by Co-ordinate Bench of this Court in **M.Cr.C. No.9462/2012 dated 03.04.2014**. It was observed by this Court that the complainant-Mohan Gupta had died on 08.11.2013. A death certificate was also filed by the present applicant before the Co-ordinate Bench of this Court. Keeping the death certificate in view, the Co-ordinate Bench of this Court ordered the applicant to file an appropriate application before the concerning Magistrate informing him that the complainant had died and the Magistrate should take appropriate action in the matter.

The order of the Co-ordinate Bench of this Court was passed on 03.04.2014 while the impugned order by which the learned Additional Sessions Judge framed charges was passed on 03.09.2015. Apparently, much after the order passed by Co-ordinate Bench of this Court. The

impugned order does not show that the learned Additional Sessions Judge took the order and direction issued by this Court into consideration, and, it also does not appear that the factum of the death of the complainant was taken into consideration by the committal court or by the trial court.

Apart from this fact, the present applicant also raises various aspects that the charges are not made out in the aforementioned sections of IPC.

Taking all the facts and circumstances of the case into consideration, this criminal revision is allowed. The impugned order dated 03.09.2015 and the charges framed in compliance of the order are set-aside. The matter is remanded back to the trial court to first take into consideration the direction issued by this Court, thereafter, if the court reaches to the conclusion that the complaint would continue even after the death of the complainant then it should be taken into consideration the various points raised by the present applicant and pass a detailed and reasoned

order thereon.

With observations and directions as
aforesaid, this criminal revision stands disposed of.

Certified copy, as per rules.

(Alok Verma)
Judge

Chitranjan