

HIGH COURT OF MADHYA PRADESH: BENCH AT INDORE

BEFORE HON. SHRI JUSTICE ALOK VERMA,J

M.Cr.C. No.1094/2015

Ravi Katariya

Vs.

Nilesh Kumar

Shri Anand Kuamr Nalvaya, learned counsel for the applicant.

Shri Abhay Saraswat, learned counsel for the respondent.

ORDER

(Passed on 06/07/2015)

This application under section 482 Cr.P.C. is directed against the order passed by the learned Judicial Magistrate First Class in Criminal Case No.2449/2010 dated 04.12.2014 by which the learned Magistrate refused to grant permission to call Income Tax Advocate of the complainant with record of Income Tax Returns filed by the complainant before the Income Tax Authorities.

2. The learned Magistrate observed in the impugned order that on 17.04.2012 an application with similar relief was filed and the same was partly allowed and necessary directions were issued. Now, this application is filed claiming the same relief again. The learned Magistrate also observed that information given by the

complainant to his advocate cannot be disclosed in the court's proceeding and is barred by section 126 of Evidence Act and on these grounds, the learned Magistrate dismissed the application.

3. Counsel for the applicant also filed certified copies of order dated 17.04.2012. By this order, the learned Magistrate directed the complainant to produce all those documents which would show the source of Rs.3,00,000/- that was alleged to have been loan to accused. It is apparent that burden was placed on the complainant to prove the source of amount and, therefore, it is irrelevant as to what income he has shown in his income tax returns and in this view of the matter, the impugned order passed by the Magistrate do not suffer from any illegality or infirmity and accordingly no case is made out for interference in the order using powers granted to this Court under section 482 Cr.P.C. Accordingly, this application is dismissed.

(ALOK VERMA)
JUDGE