

IN THE HIGH COURT OF MADHYA PRADESH
BENCH AT INDORE

(SB: Hon'ble Mr. Justice Alok Verma)

MCRC No.5624/2015

Meharazuddin

Vs.

State of MP

Shri Virendra Sharma, learned counsel for the applicant.
Ms. Mini Ravindrarn, learned counsel for the respondent/State.

ORDER

(Passed on this 3rd day of August, 2015)

This application is directed against the order passed by learned 4th Additional Sessions Judge, Dewas in CRR No.37/2015 whereby, learned Additional Sessions Judge dismissed the revision filed against the order passed by learned JMFC in Criminal Case No.487/2014 dated 14.02.2015.

The brief facts giving rise to this application are that charge-sheet was filed by the Police Station – Kotwali, District – Dewas, on 13.02.2015 under sections 306 and 498-A of IPC. On this date, the accused filed an application under section 167(2) of Cr.P.C. It was mentioned in the application that the accused Mehrazuddin surrendered before the Court on 11.12.2014, however, he was not

taken into custody and the Court directed him to appear on 12.12.2014. On that day, Presiding Officer was on leave and, therefore, the matter was further adjourned for 15.12.2014 and on which date, the accused Meharazuddin was taken into custody and sent on judicial remand. The contention of the accused was that charge-sheet was filed on 61st day after he was sent to custody and, therefore, he should be given benefit of bail under section 167(2) of Cr.P.C.

Learned revisional court in para 9 of the order observed that when he was sent to custody on 15.12.2014, counting of days shall begin from 16.12.2014 and if days are counted from 16.12.2014, charge-sheet was filed on 60th day and not 61st day, therefore, no case is made out for grant of bail under section 167(2) of Cr.P.C.

Learned counsel for the applicant filed an order of Chhattisgarh High Court in the case of **Pitloo Singh Rajput Vs. State of Chhattisgarh** reported in 2008 (3) MPHT 18 (CG) in which it was observed that word detention authorised by the Magistrate used in section 167(2) of Cr.P.C. began when the accused is produced before the Magistrate and sent to judicial custody after granting remand. The period for which he remanded in police custody shall not be counted for this purpose because that detention is not authorised by the Magistrate. For this, Chhattisgarh High Court placed reliance on the judgment of Hon'ble the

Supreme Court in the case of **Chaganti Satyanarayana and others Vs. State of Andhra Pradesh** reported in AIR 1986 SC 2130.

However, in the present case, the accused surrendered before the Court on 15.12.2014 and first day would complete after passage of 24 hours i.e. on 16.12.2014, therefore, counting shall begin from 16.12.2014 and not from 15.12.2014. In this view of the matter, no illegality was committed by the revisional court and no interference is called for.

Accordingly, this application is devoid of merit, liable to be dismissed and is hereby dismissed.

C.c as per rules.

(Alok Verma)
Judge

Kratika/-