

IN THE HIGH COURT OF MADHYA PRADESH
BENCH AT INDORE

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

MCRC No.6371/2015

Vindhya W/o Rajendra Kumar Gupta

Vs.

State of MP

Ms. Nidhi Bohra, counsel for the applicant.

Shri Amit Singh Sisodiya, counsel for the respondent/State

ORDER

(Passed on this 19th day of August, 2015)

This application under section 482 of Cr.P.C. is directed against the order passed by learned Special Judge under SC/ST (Prevention of Atrocities) Act under section 311 of Cr.P.C. dated 24.06.2015 by which, learned Judge dismissed the application filed by the present applicant to recall the complainant Shiv Narayan and confront him with various documents that present applicant received subsequently using provisions of Right to Information Act.

The brief story according to the prosecution is that

complainant Shiv Narayan and his family is residing as tenant in the house of the present applicant. On 17.07.2013, the complainant and his wife Soram bai were going to work as labourers. They were stopped by the present applicant. Present applicant insisted that wife of the complainant should not go to work as labourer and instead of work for her. She wanted her for some illegal purpose and offered her Rs.800/-. Subsequently, it is alleged that present applicant took the complainant inside the house and there acid was thrown on him by co-accused due to which he lost his eye site.

Subsequently, it is alleged by present applicant that complainant Shiv Narayan filed a written complaint before the Collector, Shajapur on 02.12.2014. After recording of his statement before the Court and in this complaint, he said that acid was thrown by his wife Soram bai and he also implicated his sister-in-law Teju bai and alleged that they both are trying to sale their daughters Bhavna and Varsha to various persons for prostitution. Subsequent to this, he also filed similar complaint in the office of Superintendent of Police, Shajapur, and also his statement was recorded. Present applicant prays by filing an

application under section 311 of Cr.P.C. to recall the complainant to confront him with the documents in which totally contrary story was narrated.

Learned Judge held that such subsequent event cannot be taken into consideration as, this would collapse the criminal justice system and no case would reach to its logical conclusion.

Counsel for the applicant places reliance on the judgment of Hon'ble the Supreme Court in the case of **Iddar Vs. Aabida** reported in LAWS (SC)-2007-7-77, in case of **Sister Mina Lalita Baruwa Vs. State of Orissa and others** reported in 2014 Cri.L.J. 671 and in the case of **Mohanlal Shamji Soni Vs. Union of India and another** reported in 1991 Cri.L.J. 1521.

So far as the present applicant is concerned, the allegations made in the complaint filed by the present applicant to the Collector in December, 2014, is entirely different than the version he gave to the police and also in his statement before the Court. Both stories are opposite to each other and each of them cannot stand, only one of them can pass test of truthfulness and, therefore, assertions of the complainant before the Collector and

his statement before the Court are just opposite to each other and facts stated before the Collector goes to the root of the matter and in this view of the matter, if the application under section 311 of Cr.P.C. is not allowed, this would result in serious miscarriage of justice. Therefore, I find that learned Judge erred while disallowing the application under section 311 of Cr.P.C.

Accordingly, this application under section 482 of Cr.P.C. deserves to be allowed and is hereby allowed. The order passed by learned Special Judge dated 24.06.2015 is set aside. The application filed by the applicant under section 311 of Cr.P.C. is allowed. It is directed that the complainant be recalled for limited purpose and confront him with the documents received by the present applicant under Right to Information Act.

Needless to say that while confronting the complainant with the documents, provisions of the Evidence Act should be followed.

C.c as per rules.

(Alok Verma)
Judge

