

HIGH COURT OF MADHYA PRADESH: BENCH AT INDORE
BEFORE HON. SHRI JUSTICE ALOK VERMA,J.

M.Cr.C. No.7715/2015

Suryakant S/o Manakchand Jouhari

Vs.

Chandanmal S/o Rajmal Chourdiya

Shri A.S. Rathore, learned counsel for the applicant.

Shri L.S. Chandiramani, learned counsel for the respondent.

ORDER

(Passed on 21/09/2016)

This application filed under Section 482 Cr.P.C. is directed against the order passed by the learned Judicial Magistrate First Class, Indore in Criminal Case No.36871/2006 dated 13.06.2014 and order passed by the learned 6th Additional Sessions Judge, Indore in Criminal Revision No.680/2014 dated 12.06.2015 whereby the learned Magistrate dismissed an application filed by the present applicant under Section 319 Cr.P.C. for impleading Sunil Chouradiya, Sangita Chouradiya, Ajay Chouradiya, Vinod Kumat and Parasmal Khajanchi as accused. The revisional Court also dismissed the revision filed against the order passed by the learned Judicial Magistrate and confirmed the order.

2. Aggrieved by the orders passed by both the courts below, the present application is filed under Section 482 Cr.P.C..

3. The facts of the case are that the applicant is dealing in sale and purchase of gold, silver and diamond jewellery. Some renovation work was going at his residence, and therefore, the respondent- Chandanmal insisted that he should keep all his jewellery and other valuables in the safe installed in his house. As the respondent was a family friend and they had good relation with each other, believing him the jewellery was kept in his safe for temporary custody. However, after renovation work was over, the complainant went to bring his jewellery back, but the respondent refused to handing over, and therefore, the complainant lodged an FIR at Police Station- Tukoganj on 05.08.1998. The police refused to register an FIR and then he sent a written compliant on which FIR was registered on 30.03.1998 under Section 406 IPC.

4. After evidence before the charge, an application was filed under Section 319 Cr.P.C. for impleading aforementioned persons as accused.

5. The learned Magistrate observed in the impugned order that in the complaint it was mentioned that the jewellery was handed over to the respondent only, no particular allegations were made against the persons, who are proposed to be impleaded as accused, and therefore, on this premise, the application was dismissed. The present applicant went in a revision against the

order, the revisional Court also of the view that the jewelleary was handed over to the respondent- Chandanmal and it was recovered from his possession. There were no specific averments against other persons, and therefore, the revision was also dismissed.

6. I have gone through the order passed by the learned Magistrate as well as the revisional Court and also the statement recorded before the trial Court of Suryakant, the complainant. In statement of the complainant also there is no specific allegations against the other accused persons, and therefore, view taken by both the courts below is correct, it does not suffer for any illegality or irrationality. The facts of the case cited by the learned counsel for the applicant in the case of **Suman vs. State of Rajasthan & Anr.; 2009 Cr.L.R. (SC) 883** is entirely different from that of the present case, and therefore, such facts are not applicable on the present case.

7. After taking into consideration all the relevant facts and circumstances of the case, no case is made out for any interference by the concurrent views taken by both the courts below, this application is devoid of merit and liable to be dismissed and dismissed accordingly.

**(ALOK VERMA)
JUDGE**