

HIGH COURT OF MADHYA PRADESH: BENCH AT INDOREBEFORE
D.B : HON. MR. JUSTICE S.C. SHARMA AND HON.MR. JUSTICE
ALOK VERMA, JUDGE

Criminal Revision No.168/2016

Vinod S/o Rammlalji Chopra

Vs.

State of Madhya Pradesh

CORAM

Hon'ble Shri Justice S.C. Sharma

Hon'ble Shri Justice Alok Verma

Whether approved for reporting ?

Shri Sanjay Kumar Sharma, learned counsel for the applicant.

Shri Mukesh Kumawat, learned counsel for the respondent/State.

Order

24.10.2017

Per : Alok Verma, Justice:

This Criminal Revision is directed against the order passed by learned First Additional Sessions Judge, Neemuch and Special Judge under Prevention of Corruption Act dated 05.01.2016, in Special Session Trial No.02/2015, wherein the learned Special Judge framed charges under Sections 406, 409, 420 of IPC & Section 13 of Prevention of Corruption Act.

2. As per prosecution story, the present applicant was posted on the post of Junior Engineer in Gramin Vidyut Sahkari Samiti

Maryadit, Manasa between October 2006 to 2007. He obtained money from various farmers for providing them temporary connections, but did not issued any receipt. When they tried to contact the present applicant, he misbehaved with them and on the pretext of providing temporary connection and fixing distribution boxes, he obtained money and used the money for his purpose, and thereby, committed offence under Sections 409, 406, 420 of IPC and Section 13 of Prevention of Corruption Act.

4. This Criminal Revision is filed mainly on the ground that from the statement of various witnesses, no charge is made out. The written complaint did not bear the signature of the complainant and no explanation was given, why the complainant did not lodged the complaint immediately. In the F.I.R. time, place and date of obtaining money was not mentioned, and therefore, no case is made out. The allegations are vague and general, and therefore, on such vague allegations, charges should not have been framed.

5. It is pertinent to note that earlier the same applicant filed another application under Section 482 of Cr.P.C., which was disposed of in M.Cr.C. No.676/2014 by order dated 16.08.2016. That application was filed on the ground that there were two crimes registered by way of different F.I.R., which was not permissible by law. It was observed that the two First Information Report were based on two different grounds, and therefore, dismissed the application. The same is reproduced as under :-

“M.Cr.C. No.676/2014

16-08-2016

Shri Sanjay Sharma, learned counsel for the petitioner.

Shri Milind Phadke, learned Government Advocate for the respondent/State.

Heard learned counsel for the parties on the question of admission.

This petition under Section 482 of Criminal Procedure Code has been filed for quashment of First Information Report pertaining to crime No.203/2013 registered against the petitioner at police station - Rampura, District-Neemuch concerning offence under Sections 409, 406 and 420 of IPC and Section 13 of Prevention of Corruption Act.

Learned counsel for the petitioner submits that on a complaint made by one Rodulal before the Judicial Magistrate, First Class, Manasa and pursuant to the directions of learned Magistrate, Crime No.30/2008

for offence under Section 409, 406 and 420 of IPC and Section 13 of Prevention of Corruption Act and Section 150 of the Electricity Act was registered against the petitioner. Subsequently, on another complaint made by one Abdul Rashid Khan, Crime No.203/2013 for offence under Section 409, 406 and 420 of IPC and Section 13 of the Prevention and Corruption Act, 1988 came to be registered against the petitioner at police station-Rampura, Distt.-Neemuch.

It is contended by the learned counsel for the petitioner that on the basis of same allegations, two first information reports have been registered against the present petitioner, which amounts to serious abuse of process of law, therefore, subsequent F.I.R. bearing crime No.203/2013 registered at police station-Rampura, Distt.-Neemuch deserves to be quashed.

We have perused the F.I.R. dated 26.03.2008

pertaining to crime No.30/2008 of police station-Rampura, Distt.-Neemuch registered on the basis of complaint made by Rodulal as well as the F.I.R. dated 28.10.2013 pertaining to crime No.203/2013 registered at police station-Rampura, Distt.-Neemuch on the complaint made by Abdul Rashid Khan.

In F.I.R. dated 26.03.2008, it has been alleged that the present petitioner, in the capacity of Managing Director, Rural Electrification Cooperative Society, Manasa, obtained money by way of illegal gratification from a number of farmers for permanent connection for supply of electricity. The allegations made in the F.I.R. dated 28.10.2013 are to the effect that the petitioner in the capacity of public servant caused loss to the Rural Electrification Society, Manasa by facilitating theft of electricity to Amit Ice Factory, Rampura. Allegedly, theft of electricity of Rs.16.60 lacs was committed by Amit Ice Factory, Rampura in collusion with the present petitioner.

Bare perusal of the aforesaid two first information reports clearly reveals that altogether different nature of allegations have been made in them against the present petitioner, therefore, it cannot be said that the subsequent First Information Report is with regard to same allegations as were made in the previous First Information Report.

In view of the aforesaid, this petition, having no merit, deserves to be and is hereby dismissed in limine”.

6. This revision is filed mainly on the ground that looking to the statements of various witnesses, no case is made out against the present applicant.

7. Learned counsel for the applicant has filed entire copies of charge-sheet. So far as the applicant's objection in respect of absence

of signature of complainant on complaint is concerned, this fact loses its importance as once crime was registered on direction issued by the Magistrate under Section 153(3) of Cr.P.C., the matter shall now be governed by the facts stated in the F.I.R. and the complaint loses its importance.

8. So far as the *prima facie* material is concerned, the charges are framed when there was a grave suspicion of commission of offence and detailed scrutiny at this stage was not required.

9. After going through the charge-sheet, it is apparent that there are sufficient ground available on record to warrant a trial of the present applicant before the trial Judge. The defence taken by the present applicant can be proved by him during the trial and as such, in considered opinion of this Court, no case is made out for any interference in the impugned order passed by the trial Court.

Accordingly, this Criminal Revision has no force, liable to be dismissed and dismissed accordingly.

(S.C. Sharma)
Judge

(Alok Verma)
Judge