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WP-12685-2024

IN THE HIGH COURT OF MADHYA PRADESH  
AT INDORE

BEFORE

HON'BLE SHRI JUSTICE PRANAY VERMA

ON THE 17<sup>th</sup> OF AUGUST, 2024

WRIT PETITION No. 12685 of 2024

*RAMESHCHANDRA*

*Versus*

*THE STATE OF MADHYA PRADESH AND OTHERS*

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Appearance:

Shri Pradeep Kumar Lalwani, learned counsel for the petitioner.

Shri Prakhar Trivedi, Panel Lawyer for the State.  
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ORDER

By this petition preferred under Article 226 of the Constitution of India, the petitioner has challenged the order dated 05.03.2020 (Annexure P/1) passed by the Superintendent of Police, District Neemuch respondent No.3 placing him in the "Gunda" list with a further direction to enter his name in the "Gunda" register.

02. From the impugned order, the reason for inclusion of name of the petitioner in the aforesaid list is not revealed except that the same has been done in view of his criminal record. In the reply filed by the respondents, a list of criminal cases registered against the petitioner has been enclosed as Annexure R/2 which shows that one case registered against the petitioner in the year 2006 was disposed off on the basis of a compromise. In one case registered in the year 2006, fine of Rs. 500/- was imposed upon him. In another case registered in the year 2014, the petitioner was acquitted on the



basis of a compromise. In two criminal cases registered against him in the year 2018, he has been acquitted. It is hence apparent that except the case at serial No.2 of the year 2006, there has not been any conviction of the petitioner and in fact he has been acquitted in all of them.

03. A person is included in the "Gunda" list under Regulation No.855 of M.P. Police Regulations which is as under:-

"855 आभ्यासिक अपराधी (Habitual Criminal) -- उचित निगरानी, जो सामान्य पर्यवेक्षण से भिन्न है, उन्हीं व्यक्तियों तक सीमित रहेगी, चाहे पूर्व दोषसिद्ध हो या न हो, जिनके विरुद्ध यह राय प्रेरित करने के लिए समुचित सामग्री विद्यमान हो कि, ऐसी अपराधिक गतिविधियों में सीमित रहकर जो जनशान्ति एवं सुरक्षा अन्तर्गस्त करती हो और सुरक्षा के लिये खतरनाक हो वे अपराध का जीवन यापन करने के निश्चय को प्रदर्शित करते हैं। केवल अपराधिक मामलों में दोषसिद्धियां जहाँ समाज की सुरक्षा को कोई बात संकट में न डालती हो इस विनियम के अन्तर्गत निगरानी को जरूरी नहीं बनाते। जब इतिहास वृत्त में प्रविष्टियां या उसके नियंत्रण में अन्य कोई जानकारी, पुलिस अधीक्षक को यह विश्वास करने के लिये सक्षम बनाती है कि उपरोक्त अनुसार विशेष व्यक्ति अपराध का जीवन बिता रहा है तब वह आदेश दे सकता है कि उसका नाम निगरानी रजिस्टर में प्रविष्ट किया जाय। उसके बाद यदि वह पूर्व से ही तैयार न हो तो मंडल निरीक्षक इतिहास वृत्त खोलेगा और वह व्यक्ति नियमित निगरानी के अधीन रखा जाएगा।"

04. The aforesaid provision is in respect of a habitual criminal. It states that surveillance would be limited only to those persons, whether they have been earlier convicted or not, against whom there is sufficient material available to form an opinion that they show an intention to involve themselves in criminal activities which are a threat to public peace and safety. It is in respect of persons who show an intention of leading a life of crime. Only because of conviction in criminal cases which do not pose any threat to peace and security of the society it would not necessitate surveillance under this regulation. The same can be directed in view of criminal record or any other information received by the Superintendent of Police which entitles him to form an opinion that the said person is living a life of crime.

05. Thus, placing of a person in the "Gunda" list for keeping him in surveillance is not dependent upon his conviction in a criminal case.



Regardless of that there should be an opinion formed on the basis of the material available that the person is engaged in life of crime and is a threat to public peace and security. Mere conviction in criminal case would not be sufficient by itself to invoke this provision. There has to be a satisfaction recorded on the basis of material available which may include conviction in a criminal case.

06. From the impugned order, it does not appear that respondent No.3 has applied his mind at all to the material available on record against the petitioner. There is no satisfaction recorded that the material available is sufficient to form an opinion that the petitioner is leading a life of crime and is a threat to public peace and tranquility. The order has been passed only by considering the criminal cases against the petitioner which as per Regulation No.855 above cannot be the sole criteria for placing him under surveillance. The impugned order is contrary to the very basic requirement of the regulation and runs contrary to the same.

07. The petitioner on the basis of the criminal cases registered against him cannot be said to be leading a life of crime which requires him to be kept in constant supervision. As of now, there is no criminal case pending against him. The only conviction is of the year 2006 in which fine of Rs.500/- was imposed upon him. It may further be noted that proceedings against the petitioner were instituted by the District Magistrate, District Neemuch under the provisions of M.P. Rajya Suraksha Adhiniyam, 1990 which were dropped by order dated 16.10.2020 (Annexure P/5) by recording a finding that there is no material to extern him.



08. In view of the aforesaid discussion, the impugned order dated 05.03.2020 (Annexure P/1) particularly in view of the subsequent event of him having been acquitted in all the criminal cases registered against him cannot be sustained and deserves to be and is accordingly quashed.

09. The petition is accordingly allowed and disposed off.

**(PRANAY VERMA)**  
**JUDGE**

Shilpa