

HIGH COURT OF MADHYA PRADESH AT JABALPUR
BEFORE SINGLE BENCH: HON'BLE SHRI JUSTICE
SHANTANU KEMKAR
CRIMINAL REVISION No.846/2003

APPLICANTS: Smt. Kalpana Maravi & Another
Vs.
RESPONDENTS: Ram Prasad & Others

Shri GS. Ahluwalia and Shri DK. Upadhyaya, learned counsel for the applicants.

None for respondent Nos. 1 to 4.

Shri RS. Shukla, learned P.L. for the respondent No.5-State.

(ORDER)

25/03/2015

This criminal revision under Sections 397, 401 of Code of Criminal Procedure is directed against the judgment dated 19/06/03 passed by Special Judge, Mandla in Special Criminal Case No.13/02, whereby the respondent Nos. 1 to 4 have been acquitted of the charges punishable under Sections 294, 506-B of Indian Penal Code and under Section 3(1)(x) of SC/ST (Prevention of Atrocities) Act, 1989 and also against the adverse remarks made against the applicants in paragraphs 6 & 15 of the impugned judgment.

2. Though the applicants have challenged the acquittal of the respondent Nos. 1 to 4, however during the course of hearing learned counsel for the applicants has pressed the revision only to the extent that learned Special Judge has made adverse remarks/observations against the applicants.

3. Briefly stated, on the basis of the complaint lodged by the the applicants a case was registered against respondent Nos. 1 to 4 under the provisions of Indian Penal Code and Prevention of Atrocities Act as aforesaid. Learned Special Judge after recording the evidence held that the charges leveled against the respondents have not been proved and as such acquitted them. However, while acquitting the respondents the learned Special Judge in paragraph Nos. 6 & 15 of the judgment made following observations:-

- (6) उभयपक्ष द्वारा पेश समस्त मौखिक व दस्तावेजी साक्ष्य का गहराई से अध्ययन करने व उस पर विचार करने पर मैं इस निष्कर्ष पर पहुंचता हूं कि रिपोर्टकर्ता श्रीमती कल्पना मरावी अ.सा.१ और उसका पति जी.पी. मरावी अ.सा.२ अत्यन्त चालाक और बदमाश अपराधी प्रवृत्ति के व्यक्ति हैं, जिन्होंने अपना कसूर छिपाने के लिए अभियुक्तों के खिलाफ मिथ्या और मनगढ़ंत रिपोर्ट दर्ज करायी तथा अपने प्रभाव वाले गवाहों की साक्ष्य से कल्पित घटना की सत्यता प्रमाणित करने का प्रयास किया है। हालांकि वे इसमें सफल नहीं हो सकते। इस निष्कर्ष के निम्नलिखित कारण हैं।
- (15) परिणाम स्वरूप मैं अभियोजन साक्ष्य से चारों अभियुक्तों रामप्रसाद मिश्रा, श्रीमति उषारानी पाण्डे, कु. कीर्ति नायडू व श्रीमति उषाकिरण शुक्ला पर उपर कंडिका १ में लगाए गए धारा २६४, ५०६-बी भ.दं.वि. तथा धारा ३ (१) (दस) अनुसूचित जाति एवं अनुसूचित जनजाति (अत्याचार निवारण) अधिनियम के आरोपों की सत्यता प्रमाणित होना नहीं पाता। फलतः उन्हें दोषमुक्त करता हूं। अभियुक्तों के उपस्थिति संबंधी जमानत मुचलके उनके हक में निरस्त किए जाते हैं। निर्णय की एक प्रतिलिपि पुलिस अधीक्षक मण्डला को इस निर्देश के साथ भेजी जावे कि वे थाना प्रभारी निवास और आदिम जाति कल्याण थाना मण्डला व अन्य संबंधित थाना प्रभारियों को यह निर्देश देवें कि भविष्य में यदि कभी भी जी.पी.मरावी, कल्पना मरावी या उनके समर्थकों या परिचितों द्वारा किसी व्यक्ति पर कोई आरोप लगाते हुए पुलिस रिपोर्ट की जावे तो अपराध पंजीबद्ध करने के पूर्व उसकी सत्यता की भलीभांति छानबीन करने और संतुष्ट होने के उपरांत ही अपराध पंजीबद्ध किया जावे और पंजीबद्ध करने से पहले आरोपित व्यक्तियों के पक्ष को भी सुना जाकर उसकी सत्यता की जांच की जावे।

4. According to the learned counsel for the applicants while making the aforesaid adverse remarks against the applicants the trial Court has not given any notice or opportunity of hearing to the applicants and the adverse remarks have been passed against them unheard. He also stated that the remarks were uncalled for as they were not necessary for the adjudication of the case

registered against respondents. He placed reliance on the judgment of the Supreme Court in the matter of '*K' a Judicial Officer, AIR 2001 SC 972*.

5. Having considered the submissions made by the learned counsel for the parties and having gone through the impugned judgment and the adverse remarks / observations made against the applicants, I find that the trial Court while making the aforesaid adverse remarks / observations has not provided any opportunity or sought for any explanation from the applicants to defend themselves. The learned Special Judge has also not taken into consideration as to what was the actual relevant material on record leading to making and justifying the remarks and has also not dealt with the question as to whether it is necessary for the fair adjudication of the case to make such remarks.

6. The Supreme Court in the case of '*K'. a Judicial Officer (supra)* has observed that though the power to make remarks or observations is there but on being questioned, the exercise of power must with-stand judicial scrutiny on the touchstone of following tests :- (a) whether the party whose conduct is in question is before the Court or has an opportunity of explaining or defending himself; (b) whether there is evidence on record bearing on that conduct justifying the remarks; and (c) whether it is necessary for the decision of the case, as an integral part thereof, to animadvert on that conduct. The overall test is that the criticism or observation must be judicial in nature and should not formally depart from sobriety, moderation and reserve.

7. It has now been well settled that the Courts are required to observe judicial restraint and discipline as are necessary to the orderly administration of justice as they are to the effectiveness of the army. The duty of restraint, this

humility of function should be a constant theme of Judges. In the present case very strong and carping language has been used by the trial Court while criticizing the conduct of applicants, which in my considered view was not at all necessary for deciding the case. It is also clear that the applicants had not been provided opportunity to meet the adverse observations, which have been incorporated in the impugned judgment.

8. Moreover, in view of the law laid down by the Supreme Court in the case of *Lalita Kumari Vs. Government of U.P., 2014 (2) SCC 1* the directions in regard to the registration of the FIR contained in paragraph 15 as aforesaid are unsustainable as the Police Officer is required to act in the light of the directions contained in the judgment of the Supreme Court in the case of *Lalita Kumari (supra)* in case any complaint is lodged by the applicants.

9. In the circumstances in my considered view the observations made in paragraph Nos. 6 & 15 of the impugned judgment are liable to be and are hereby quashed and ordered to be expunged.

10. In the result the revision is partly allowed to the extent indicated above.

C.c as per rules.

(Shantanu Kemkar)
JUDGE

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