

Ramsushil Sharma Vs. the State of Madhya Pradesh

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Court : Madhya Pradesh

Decided On : Jul-17-2013

Appellant : Ramsushil Sharma

Respondent : The State of Madhya Pradesh

Judgement :

M.Cr.C.No.7662/2013 17.07.2013 Shri J.N.Tripathi, Advocate for the applicants.

Shri Prakash Gupta, Panel Lawyer for the Respondent/State.

Heard on admission.

The applicants have challenged the FIR lodged against them vide Crime No.104/2013.

After considering the submissions made by the learned counsel for the parties and looking to the facts and circumstances of the case, it is apparent that if the applicants were acquitted vide judgment dated 26.4.2013 passed by the Sessions Judge, Satna in ST No.7/2011 for the incident dated 20.11.2010, then the second FIR can be lodged if repeated crime has been done by the applicants, and therefore if such type of FIR was lodged by the complainant in the past, then it makes no difference.

It is apparent that Smt.

Kaushalya Sharma has lodged the FIR against the applicants that they kidnapped her daughter.

The defence of the applicants is that the kidnapped girl is a minor one, who is residing with someone with her own and she never kidnapped.

In support of this contention, a copy of affidavit is also submitted of that kidnapped girl.

At present the kidnapped girl is not recovered.

If there is no intervention of the applicants in the alleged kidnapping, then they could not get such affidavit from the prosecutrix.

It is yet to be decided that the affidavit is given due to threat etc. or voluntarily given by the prosecutrix.

Under such circumstances, unless the prosecutrix is recovered and she says in favour of the applicants, it cannot be said that no crime has been committed by the applicants.

On the basis of the aforesaid discussion, it is not a case where the FIR against the applicants can be quashed.

If the prosecutrix is recovered by the police and she says that she went with the applicants, then final closure report shall be submitted by the police.

Therefore, the present petition under Section 482 of Cr.P.C. cannot be accepted.

Consequently, it is hereby dismissed at motion stage.

(N.K.Gupta) Judge Ansari

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