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In Reference Vs. Shri C.P. Bhatt [Advocate]

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Court : Madhya Pradesh

Decided On : Jul-30-2013

Appellant : In Reference

Respondent : Shri C.P. Bhatt [Advocate]

Judgement :

1 Con.Cr.

No.6/2012 30/7/2013: Smt.

Nirmala Nayak, learned Panel Lawyer for the applicant.

Shri Parag Chaturvedi, learned counsel for the not applicants.

On a complaint made and a reference issued by the Executive Magistrate, Tarana, District Ujjain this complaint has been registered under Section 15 of the Contempt of Courts Act, 1971.

On going through the record it is seen that complaint was directly sent by the Executive Magistrate to the Registrar of the Court and on recommendation of the Deputy Registrar, the complaint has been registered.

Shri Parag Chaturvedi invites our attention to Section 15 of the Contempt of Courts Act, 1971 read along with High Court of M.P.Contempt of Court Proceedings, 1980 and says that in the present case neither the question is

referred through the Advocate General not is any preliminary enquiry held before registration of the complaint.

It is emphasized by him that the complaint was with regard to certain incident that took place in the office of Executive Magistrate.

It was not in any proceeding held in the High Court or the subordinate Court and the complaint has been directly sent through Executive Magistrate without being root through the Advocate General, no preliminary enquiry has been conducted and the complaint has been registered which is unsustainable.

It has been submitted that the matter has been resolved through intervention of the Bar Association and the Bar Association has also expressed regret with regard to the same.

2 Having considered the rival contentions, we are of the considered view that in the facts and circumstances of the case when the complaint was by the Executive Magistrate, the complaint could have been registered only if it has been root from the office of Advocate General, after proper enquiry was available.

As the complaint has been registered directly by the High Court without there being any recommendation or opinion of the Advocate General, we refuse to take cognizance of the same and dispose of the matter with liberty to the aggrieved person to take recouRs.to the procedure available under the law.

With the aforesaid, not applicants are discharged from the proceeding and the proceeding closed.

(Rajendra Menon) (MRS.Vimla Jain) Judge Judge mrs.mishra

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