

Prashant Kumar Gupta Vs. the State of Madhya Pradesh

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Court : Madhya Pradesh

Decided On : Aug-24-2012

Appellant : Prashant Kumar Gupta

Respondent : The State of Madhya Pradesh

Advocate for Pet/Ap. : Shri. Sourabh Sharma

Judgement :

1 W.P.No.11907/2012 P.K.Gupta versus State of M.P.& ORS.23.08.2012 Heard Shri Sourabh Sharma learned counsel for the petitioner, on the question of admission and interim relief.

The petitioner has filed this petition alleging inaction on the part of the police authorities on the complaint filed by the petitioner.

It is submitted by the learned counsel for the petitioner that as the police is duty bound to register a criminal case on receiving a complaint, therefore, in view of the Division Bench decision of this Court rendered in the case of Ramlal KuMr.versus State of M.P.and OtheRs.W.A No.401/2011, they be directed to do so.

I have perused the petition filed by the petitioner and it appears that there is a dispute between the petitioner and respondent no.5 which relates to and originates from an agreement for purchase of land situated in Village Murpar, Tehsil Rithi, District Katni and the petitioner has filed the present complaint against the respondents as an off-shoot of the said transaction.

The Supreme Court, in the cases of Rajinder Singh Katoch v.

Chandigarh Administration, (2007) 10 SCC 69.P.

Sirajuddin v.

State of Madras, (1970) 1 SCC 595.State of U.P.v.

2 W.P.No.11907/2012 P.K.Gupta versus State of M.P.& ORS.Bhagwan Kishore Joshi, AIR 196.SC 221.Sevi v.

State of Tamil Nadu, 1981(Supplementary) SCC, 43, State of M.P.v.

Santosh Kumar, (2006) 6 SCC 1 and Suresh Gupta v.

Government of NCT of Delhi, (2004) 6 SCC 422.has held that the police is entitled to conduct an enquiry before registering a case and it is not mandatory for it to immediately register a criminal case on receiving a complaint.

Quite apart from the above, in the cases of Sakiri Vasu v.

State of Uttar Pradesh and otheRs.(2008) 2 SCC 40.and Divine Retreat Centre v.

State of Kerala and otheRs.(2008) 3 SCC 542.the Supreme Court has held that in such cases the remedy of the petitioner, whose complaint has not been registered, is to fiRs.avail the remedies provided under the Code of Criminal Procedure itself and, thereafter to file a complaint case.

The same view has also been taken by the Division Bench of this Court in the case of Ramlal KuMr.(supra) relied upon by the petitioner, a copy of which has been annexed alongwith the petition wherein the Division Bench of this Court has upheld the order of the Single Judge disposing of the appeal with a direction to the appellant therein to file a complaint before the concerned 3 W.P.No.11907/2012 P.K.Gupta versus State of M.P.& ORS.Magistrate relying upon the law laid down by the Supreme Court in the case of Sakiri Vasu (supra) in para-11.

The subsequent direction issued by this Court had only been issued in view of the statement made by the learned Additional Advocate General wherein he has

stated that in case a complaint is made to the Superintendent of Police in writing, he shall investigate the matter or get it investigated.

In view of the aforesaid decisions of the Supreme Court and of this Court, it is clear that the contention of the petitioner that in all cases where the police authorities do not register a fiRs.information report on a complaint being filed by an individual, a direction has to be issued by this Court to the police authorities to do so is legally misconceived and cannot be accepted.

Issuance of such a direction would depend upon facts of each case.

In the facts and circumstances of the present case I do not find any reason to issue a direction as prayed for by the petitioner.

In the circumstances, the petition filed by the petitioner is disposed of with liberty to the petitioner to avail of the remedies prescribed under the provisions of the Criminal Procedure 4 W.P.No.11907/2012 P.K.Gupta versus State of M.P.& ORS.Code as has been held by the Supreme Court in the above mentioned cases.

With the aforesaid liberty and observations the petition, filed by the petitioner, stands disposed of.

C.C as per rules.

(R.S.JHA) JUDGE mms/-

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