

Manish Kumar Taneja Vs. State

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Court : Madhya Pradesh

Decided On : Nov-30-2001

Reported in : 2002(1)MPHT224

Judge : N.S. Azad, J.

Acts : Madhya Pradesh Excise Act, 1915 - Sections 34(1), (2), 36-A and 59(2);
[Code of Criminal Procedure \(CrPC\) , 1973](#) - Sections 488

Appeal No. : Misc. Criminal Case No. 5256/2001

Appellant : Manish Kumar Taneja

Respondent : State

Advocate for Def. : A. Tamrakar, Panel Lawyer

Advocate for Pet/Ap. : S.C. Datt, Sr. Adv. and ;Vikas Sharma, Adv.

Disposition : Case dismissed

Judgement :

ORDER

N.S. Azad. J.

1. Arguments heard.

2. CD. of Crime No. 208/2001, dated 15-7-2001, registered by Excise Sub-Inspector, Chhindwara, pertaining to offences punishable under Section 34 (1) (a) read with Sections 34 (2) and 36-A of the M.P. Excise Act, 1915, perused.

3. It is the case of the non-applicant that on 14th July, 2001, at 11.00 in the night, a raid was organised and carried out at Hotel Relax and Bar situated at Station Road, Chhindwara, where this petitioner was found sitting at the sale counter, who is the owner and had been running the Hotel so also Restaurant. It is also the case of the non-applicant that in search, 109.64 litres of foreign liquor was found, which was seized in presence of Jiyauddin, the servant of this petitioner, as the petitioner made his escape good, on seeing the raid party.

4. It is submitted by Shri Datt that long before raid was carried out, this petitioner leased out the Bar to one Ravi Baghel on 16-5-2001 under a deed of 'Chaloo Restaurant Babat Kirayanama', who was in possession of this Bar at the time of alleged raid. It is further submitted by Shri Datt that this Court has also perused the Notary register for verifying the genuineness of this document on 23-10-2001. It is also submitted by Shri Datt that on 14-7-2001, this petitioner came down to Jabalpur in connection with marriage negotiations of his daughter and on his becoming sick, he remained admitted in Trimurti Nursing Home as an indoor patient, till 18-7-2001. He has drawn the attention of the Court to certificate issued by Dr. Prakash Shrivastava, who has certified the fact of this petitioner been admitted in Trimurti Nursing Home at 3.00 p.m. on 14-7-2001 and then his remaining as indoor patient till 2.00 p.m. on 18-7-2001.

5. Shri Datt made this submission also that one Sardar Bedi was having enemical terms with this petitioner, who in fact, has managed this raid and got the false case prepared. Shri Datt has pointed out that for the purpose of saving persons from false allegations and harassment, this remedy under Section 488, Cr.PC is provided as explained in Gurubakash Singh v. State of Punjab, reported in AIR 1980 SC 1630. It is also submitted by Shri Datt that this Court asked the learned Panel Lawyer to make an enquiry and verify the aforesaid documents produced on behalf of this petitioner, which are found true on verification.

6. The genuineness of papers produced on behalf of the petitioner, to prove his alibi, can not be examined at this stage, where the Court is required to confine its examination to the papers submitted on behalf of the State, except where the reliable documents, seeking no enquiry or verification, are submitted. Since the genuineness of the papers filed on behalf of petitioner is to be tested in trial, I am not inclined to rely upon the papers submitted on behalf of the petitioner.

7. Keeping in view the bar contained in Sub-section (2) of Section 59 of the M.P. Excise Act, the petitioner is not found entitled for bail and hence this petition is disallowed and rejected.

8. Misc. Criminal Case dismissed.

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