

Vikas and anr. Vs. State of M.P.

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Court : Madhya Pradesh

Decided On : Mar-22-2002

Reported in : 2002(3)MPHT533

Judge : S.L. Kochar, J.

Acts : Code of Criminal Procedure (CrPC) , 1974 - Sections 190 and 482; Indian Procedure Code - Sections 420, 467 and 468

Appeal No. : Misc. Criminal Case No. 992/2002

Appellant : Vikas and anr.

Respondent : State of M.P.

Advocate for Def. : Desai, Dy Adv. General

Advocate for Pet/Ap. : Saraf, Adv.

Judgement :

ORDER

S.L. Kochar, J.

1. The applicants have raised their grievances against the order passed by Addl. Sessions Judge, Shujalpur, Distt. Shajapur in Cr. Revision No. 118/2000, dated 29-1-2002 arising out of order dated 19-1-2000 and 22-1-2001 passed in Criminal

Case No. 581/99 by JMFC, Shujalpur dismissing their revision against the order of framing of charge.

2. The prosecution case in short is that the police of Police Station, Kalapeepal has filed charge-sheet against the applicants for the offences punishable under Sections 420, 467 and 468, IPC vide Crime No. 213/96 alleging that they had obtained false certificate of S.T. after submitting false and forged affidavits which is contrary to the provisions of law. The JMFC, Shujalpur framed charge against the applicants for the aforesaid sections.

3. This order was assailed before the Revisional Court and the same has been dismissed, hence this petition has been filed praying for exercising of inherent power for quashing the Courts below orders by this Court. The contention of learned Counsel for the applicants is that the Supreme Court has ruled in a case of Ku. Madhuri Patil and Anr. v. Addl. Commissioner, Tribunal Development (AIR 1995 SC 94):

11. The order passed by the Committee shall be final and conclusive only subject to the proceedings under Article 226 of the Constitution.

12. No suit or other proceedings before any other authority should lie.

In Paragraph 12 of the aforesaid judgment the Supreme Court has held as under:--

For that purpose, it is necessary to streamline the procedure for the issuance of a social status certificate, their scrutiny and their approval.

The Supreme Court has also directed in Paragraph 14 as under:--

In case, the certificate obtained or social status claimed is found to be false, the parent/guardian/the candidate should be prosecuted for making false claim. If the prosecution ends in a conviction and sentence of the accused, it could be regarded as an offence involving moral turpitude, disqualification for elective posts or offices under the State or the Union or elections to any local body, Legislature or the Parliament.

4. In view of the aforesaid directions and guidelines set up by the Supreme Court in Madhuri Patil's case (supra) the police has no jurisdiction to take cognizance of complaint lodged by Shri Sharma retired Principal, Hoshangabad for registration of aforesaid offences and investigate into the matters, therefore, the charge-sheet filed by Kalapeepal Police against the applicants for offences punishable under Sections 420, 467 and 468, IPC vide Crime No. 213/96 is without jurisdiction and taking of cognizance over the said charge-sheet under Section 190, Cr. PC by Magistrate is also without jurisdiction because if anybody has obtained admission or service after procuring false caste certificate relating to ST, SC or OBC, the matter will be enquired into by the Caste Scrutiny Committee constituted in each State and after its final decision, if it is found that the certificate obtained or social status claim is found to be false the parents/guardian/candidates shall be prosecuted for making false claim. If the prosecution ends in a conviction and sentence of the accused, it could be regarded as an offence involving moral turpitude, disqualification for elective posts or offices, under the State or the Union or elections to any local body, Legislature or the Parliament.

5. In view of the aforesaid factual and legal discussion, thus it is clear that in fact the complaint ought to have been referred to State Level Committee whose decision would be final and can only be challenged under Article 226 of Constitution, therefore, this Court is of the opinion that the investigation by the police and thereafter filing charge-sheet and framing of charge-sheet over which taking cognizance and framing charge and affirming the same by the Revisional Court are illegal and without jurisdiction and liable to be quashed. Accordingly, the same are quashed. Trial Court, Kalapeepal Police Station or Collector, Shajapur are directed to refer the said complete charge-sheet to the State Level Committee for holding an enquiry in accordance with law and guidelines set up by the Supreme Court in Madhuri Patil's case (supra). It is further directed that the Committee shall enquire into the matter and final verdict be delivered as early as possible keeping in view the directions/guidelines set up by the Supreme Court in Madhuri Patil's case.

With the aforesaid directions the application stands disposed of.

