

Devkaran Mevara Vs. State of M.P. and anr.

Devkaran Mevara Vs. State of M.P. and anr.

SooperKanoon Citation : sooperkanoon.com/508787

Court : Madhya Pradesh

Decided On : Sep-21-1999

Reported in : 2000(2)MPHT236

Judge : Maithli Sharan, J.

Acts : Indian Penal Code (IPC) - Sections 279, 297, 304A, 337 and 338; Code of Criminal Procedure (CrPC) , 1974 - Sections 320(2), 320(4), 397(2), 451 and 482

Appeal No. : Misc. Criminal Case No. 1393/99

Appellant : Devkaran Mevara

Respondent : State of M.P. and anr.

Advocate for Def. : Chitra Saxena, Adv.

Advocate for Pet/Ap. : Rakesh Saxena, Adv.

Disposition : Petition dismissed

Judgement :

ORDER

Maithli Sharan, J.

1. The facts of the case are thus : A Criminal Case No. 133/99 under Sections 304A, 279, 337 and 338 of the Indian Penal Code, against the accused Santosh

Prajapati and others, was pending in the trial Court viz., Judicial Magistrate, First Class, Kolaras, District-Shivpuri. The petitioner who claims to be the owner of the Truck No. MP-04-A/7279 filed an application in the trial Court under Section 451 of the Code of Criminal Procedure for claiming custody of the above mentioned vehicle. The learned trial Court allowed the application filed by him and ordered for the release of the said vehicle conditionally on producing bond and solvent security of Rs. 3,00,000/- alongwith Bank Guarantee of Rs. 3,00,000/-. The petitioner did not produce the solvent security and the Bank Guarantee.

2. However, afterwards the accused persons, Santosh Prajapati and others, entered into a compromise with the injured/complainant and filed an application before the learned trial Court under Section 320(2) & (4) of the Code of Criminal Procedure. The learned trial Magistrate granted permission to enter into compromise. The injured persons had also mentioned in their application that they had received compensation of Rs. 45,000/- from the accused persons. The case for the offences under Sections 297 and 304A of the Indian Penal Code remained pending. At this juncture it is worthwhile to note that the petitioner-Devkaran Mevara - who claims to be the owner of the above mentioned vehicle, was not a party at all in that compromise. He afterwards filed an application that since no compensation remained to be ordered to be paid to the injured persons hence in the light of the compromise entered into between the parties, the conditional order passed by the Court below should be amended and the conditions in regard to the Bank Guarantee etc., should be removed. The learned Magistrate rejected that application.

3. Now, the petitioner, aggrieved by the impugned order dated 20-4-99, has moved this Court invoking its inherent jurisdiction under Section 482 of the Code of Criminal Procedure. It is again curious to note that the petitioner did not choose to file a criminal revision against the said impugned order. Learned counsel for the petitioner submits that the revision petition could not be filed because the impugned order is an interlocutory order. I am of the view that the provisions of Section 482 of the Code of Criminal Procedure cannot be taken to be a substitute for approaching the High Court against an interlocutory order. Had it been so, the provisions of Sections 397(2) of the Code of Criminal Procedure would have

become redundant. The legislature cannot be presumed to take away one legal remedy by one hand and provide another similar legal remedy by another hand. That apart, the factual aspects involved in the case also do not go to indicate that it is such a rare case in which invoking of the inherent jurisdiction of this Court is justified.

4. In view of the above discussion, I find no substance in this petition which is hereby dismissed.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com