

Gaurishankar and ors. Vs. State of Madhya Pradesh and anr.

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SooperKanoon Citation : sooperkanoon.com/508954

Court : Madhya Pradesh

Decided On : Aug-20-2009

Reported in : 2010(1)MPHT347

Judge : Indrani Datta, J.

Appellant : Gaurishankar and ors.

Respondent : State of Madhya Pradesh and anr.

Disposition : Petition dismissed

Judgement :

ORDER

Indrani Datta, J.

1. The petitioners have filed this petition under Section 482, Cr.PC for quashing the FIR registered in connection with Crime No. 6/09 at Police Station, Jigna, District Datia.

2. As per petition, respondent No. 2 complainant Dayal has lodged FIR against the petitioners alleging that on 22-2-09 complainant was returning to his home. In the way, present petitioners restrained him and abused him called him Chamrawale and thereafter started beating him and threatened him to kill. Wife of complainant reached on spot and tried to rescue complainant, then petitioners also assaulted

her. On this report lodged by complainant vide Crime No. 6/09, offence punishable under Sections 323, 294, 506-B, 341/34, IPC and Section 3(1)(x) of the SC/ST (Prevention of Atrocities) Act was registered against the present petitioners and in that crime police is trying to arrest present petitioners.

3. It is contended on behalf of the petitioners that the impugned FIR and entire proceedings are illegal, arbitrary and contrary to law and liable to be quashed. Prima facie, no case under Section 3(1)(x) of SC/ST Act is made out against the present petitioners as it is not evident that petitioners uttered the word in order to lower the dignity of complainant nor used those words regarding his caste to humiliate him. There is no material to frame charges against the present petitioners under Sections 323, 294, 506-B, 341/34, IPC and Section 3(1)(x) of SC/ST Act. Hence, entire FIR in connection with Crime No. 6/09 as well as entire criminal proceedings pending against petitioners is to be quashed.

4. Considered the documents on record as well as FIR in which complainant has specifically stated that the petitioners assaulted him by means of legs, fists, chappal and Luhangi, they uttered obscene words in respect of his caste and abused him 'Madarchod Chamrawale' and they also assaulted his wife and threatened him to kill.

5. In the case of Inder Mohan Goswami and Anr. v. State of Uttaranchal and Ors. : AIR 2008 SC 251, the Hon'ble Apex Court has examined the scope and ambit of Section 482 of Cr.PC. It has been observed by the Apex Court that inherent powers under Section 482 should be exercised for the advancement of justice. If any abuse of the process leading to injustice is brought to the notice of the Court, then the Court would be fully justified in preventing injustice by invoking inherent powers of the Court.

6. Furthermore, in the case of Janata Dal v. H.S. Chowdhary and Ors. : (1992) 4 SCC 305, the Hon'ble Apex Court has observed that the Criminal Courts are clothed with inherent power to make such orders as may be necessary for the ends of justice. Such power though unrestricted and undefined should not be capriciously or arbitrarily exercised, but should be exercised in appropriate cases, ex debito justitiae to do real and substantial justice for the administration of which

done the Courts exist. The power possessed by the High Court under Section 482 of the Code are very wide and the very plenitude of the power requires great caution in its exercise. Courts must be careful to see that its decision in exercise of this power is based on sound principles.

7. Over and above, in the case of *Gorige Pentaiah v. State of A.P. and Ors.* 2008 (5) M.P.H.T. 247 (SC) : 2008 AIR SCW 6901, the Hon'ble Apex Court has held that exercise of inherent powers under Section 482 has to be done sparingly, carefully and only in situations laid down in Section 482 of the Code.

8. On perusal of the evidence collected during investigation, it cannot be assumed that criminal proceedings are manifestly attended with malafide or maliciously instituted, therefore, it is not a fit case to invoke inherent powers conferred under Section 482, Cr.PC. As a result this petition is dismissed with a liberty to petitioners that they are free to raise all these grounds before the concerned Court at the time of framing of charge.