

Karansingh Vs. State of M.P.

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Court : Madhya Pradesh

Decided On : Apr-24-2002

Reported in : 2003CriLJ1787; 2002(4)MPHT582

Judge : S.L. Kochar, J.

Acts : Code of Criminal Procedure (CrPC) , 1974 - Sections 195, 195(1) and 482;
[Indian Penal Code \(IPC\), 1860](#) - Sections 188

Appeal No. : Misc. Criminal Case No. 118/2002

Appellant : Karansingh

Respondent : State of M.P.

Advocate for Def. : Desai, Dy. Adv. General

Advocate for Pet/Ap. : Sanjay Sharma, Adv.

Judgement :

ORDER

S.L. Kochar, J.

1. This petition under Section 482, Cr.PC has been filed for quashing the charge framed against applicant for offence under Section 188, IPC by the learned J.M.F.C., Barwaha, Distt. Khargone in Criminal Case No. 139/2001.

2. Against the aforesaid order of framing of charge by J.M.F.C., applicant went up in revision and the same has been dismissed vide Cr. Rev. No. 198/2001 by order dated 23-11-2001.

3. Necessary facts for decision of this case are that the police of Police Station, Barwaha had filed a charge-sheet for the offence under Section 188, IPC against the applicant vide Crime No. 377/2002 before learned J.M.F.C., Barwaha. The aforesaid crime was registered by police on the basis of report submitted by patwari Halka No. 12, Tehsil Barwaha, which appears to be sent through Tehsildar, Barwaha. There is an endorsement on this report dated 24-11-2000 made by Tehsildar forwarding this application for necessary action to the Station House Officer, Barwaha.

4. The applicant is a resident of Village Umara, who had illegally fixed an electric motor for irrigation of his land from the tank situated in Village Jamniya and from the said tank he got his one and half acre land irrigated to the cotton crop. Therefore, it is alleged by the prosecution that the applicant has committed breach of order No. 12591/Drinking Water Section/2000, dated 21-9-2000 passed by Collector, Khargone in Case No. 15/B/121/1999-2000. In support of this complaint filed by Patwari before police the copy of entries of the land record made were also filled. Alongwith charge-sheet statements of witnesses, arrest memo and other documents have been filed.

5. Learned Trial Court heard the parties on the question of framing of charge on 27-7-2001 and thereby passed an order on 31-7-2001 for framing of charge under Section 188, IPC against the applicant. In pursuance thereof the charge was framed, against which the applicant revisioned before the Lower Revisional Court and the same has been dismissed by A.S.J., Barwaha, which is the order impugned.

6. Learned Counsel for applicant submits that in view of the provisions of Section 195 Sub-section (1) (a) (iii), which reads as under:--

'195. Prosecution for contempt of lawful authority of public servants, for offences against public justice and for offences relating to documents given in evidence.--

(1) No Court shall take cognizance-

(a)(i) of any offence punishable under Sections 172 to 188 (both inclusive) of the Indian Penal Code (45 of 1860); or

(ii) of any abetment of, attempt to commit, such offence; or

(iii) of any criminal conspiracy to commit, such offence, except on the complaint in writing of the public servant concerned or of some other public servant to whom he is administratively subordinate.'

In view of the aforesaid provisions the complaint can only be filed by the Collector, who has passed an order, which was said to have been infringed by the applicant or any other officer to whom he is administratively subordinate. In the present case complainant has been filed by Patwari on the basis of endorsement made by Tehsildar, therefore it is contrary to the mandatory provisions of Section 195, Cr.PC as mentioned above. This Court can safely rely on a judgment reported in State v. Kantilal, 1997 MPLJ Short Notes 1 as well as State of Punjab v. Rajsingh and Anr., 1998 SCC (Cr.) 642.

7. In view of the abovementioned facts and law involved in the present case, the order of framing of charge dated 31-7-2001 as well as the revisional order dated 23-11-2001 are hereby quashed. This revisions stands disposed of.

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