

Manoj Vs. Savita

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Court : Madhya Pradesh

Decided On : Jul-17-2002

Reported in : 2003CriLJ3087

Judge : Narain Singh 'Azad', J.

Acts : Code of Criminal Procedure (CrPC) , 1974 - Sections 403 and 482; Indian Penal Code (IPC) - Sections 198A, 494 and 500; [Constitution of India](#) - Article 20

Appeal No. : M.Cr.C. No. 4145 of 2002

Appellant : Manoj

Respondent : Savita

Advocate for Pet/Ap. : P.R. Soni, Adv.

Disposition : Petition dismissed

Judgement :

ORDER

Narain Singh 'Azad', J.

1. Feeling aggrieved by the order of dismissal of an application, filed by this petitioner under Section 245 of the Code of Criminal Procedure, hereinafter referred to as the Code, in Criminal Case No. 1218/2000, pending in the Court of

J.M.F.C. Jabalpur, this petitioner has challenged not only the aforesaid order dated 19-2-2001, but also seeks quashment of aforesaid criminal case, after being unsuccessful in his CrI. Rev. No. 307/2001, which stood disposed of by IInd A.S.J. Jabalpur, on 7-5-2002.

2. As per this petitioner, on a report dated 20-9-1998, lodged by respondent against this petitioner, Crime No. 162/98, was registered for offences punishable under Section 498A/494/506 of the IPC and under Section 3/4 of the Dowry Prohibition Act, in respect of which the police submitted expungement report, bearing No. 13/6-12-98. Thereafter, the respondent, the wife of this petitioner filed a private complaint in the Court of J.M.F.C. Jabalpur, which is registered as Complaint Case No. 472/99. On report being called from concerning Police Station Katangi, it is informed that in respect of the allegations levelled in her first information report dated 20th Sept. 1998, the respondent has filed the private complaint against this petitioner, with exaggerated facts, which is registered as Complaint Case No. 1218/ 2000. On being summoned by the Court of JMFC, this petitioner filed an application under Sub-section (2) of Section 245 of the Code, which stood disallowed on 19-2-2001. The petitioner's challenge to aforesaid order in CrI. Rev. No. 360/2001, also resulted in rejection by the Second Addl. Sessions Judge, Jabalpur, on 7-5-2002, and hence the petitioner has approached this Court, seeking exercise of inherent powers for quashment of the proceedings of the Criminal Complaint No. 1218/2000.

3. It is argued on behalf of the petitioner that the submission of expungement report by the concerning police station Katangi, and its acceptance, amount to discharge of the petitioner and hence a second criminal case, on the same set of facts is barred, as per principle of *autrefois acquit*. In support of this argument, Shri P.R. Soni, learned counsel for the petitioner, has drawn the Court's attention to *Chittaranjan Saha v. State*, reported in AIR 1960 Patna 168 : 1960 Cri LJ 503, and *Mahomed Safi v. State of West Bengal*, reported in AIR 1966 SC 69 : (1966 Cri LJ 75).

4. But, it is found explained by their Lordships of the Supreme Court in *Mahomed Safi v. State of West Bengal* (1966 Cri LJ 75) (*supra*) that --

For the bar Under Section 403(1) to operate the accused must have been (a) tried by a Court; (b) which is of competent jurisdiction and; (c) acquitted of the offences alleged to have been committed by him or by an offence with which he might have been charged Under Section 236 or for which he might have been convicted Under Section 237 of the Code.'

5. Thus, in this case, the principle of *autrefois acquit*, does not come to the rescue of the petitioner because he was not discharged by the Court in respect of report dated 20-9-98, lodged by respondent. Secondly, the expungement report even if submitted by concerning police station Katangi, is not proved to have been accepted by the Court, which was not found to accept the same merely on submission. Thirdly, this petition for quashment of complaint, is filed after remaining unsuccessful in the two Courts below, which in fact is a second revision in the garb of application filed Under Section 482 of the Code, which is not permissible.

6. Thus, no interference in exercise of inherent powers is called for and hence this petition does not merit, which stands disallowed and rejected at the stage of motion hearing.

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