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Court : Rajasthan

Decided On : Jul-11-1975

Reported in : 1975WLN(UC)273

Judge : K.D. Sharma, J.

Appeal No. : S.B. Criminal Miscellaneous Application No. 1376 of 1974

Appellant : Pramod Kumar

Respondent : State of Rajasthan

Judgement :

K.D Sharma, J.

1. Pramod Kumar petitioner has invoked the inherent jurisdiction of this Court under Section 482 of the Criminal Procedure Code, 1973, for quashing the proceedings under Section 345, Cr PC initiated by the learned Judicial Magistrate, Bhinmal, and for expunging certain remarks made against him in his order dated 15th October, 1974.

2. The short facts giving rise to this application may be stated as follows. Mohan Lal son of Roopji Meghwal resident of Bhinmal filed an application before the Judicial Magistrate, Bhinmal, on 5-10- 1974 that he deals in bicycles and that one Babulal had taken his cycle on hire about three months ago and that he came to

know that the said cycle had been deposited with the police at police station, Modaran. He requested the Court to hand over the cycle to his custody. Upon receipt of this application, the learned Magistrate Directed the petitioner, who was working as Assistant Public Prosecutor in his court, to obtain a report from the Station House Officer, Police Station, Modaran, on or before 11-10-1974. On 11-10-1974, the petitioner could not obtain the report so he requested the court to grant him some more time to produce the report. The learned Magistrate, therefore, adjourned the case to 15-10-1974. On 15-10-74 the petitioner intimated to the court that he had not received the report from the Police Station. The learned Magistrate, thereupon, issued a notice under Section 349, Cr PC to the petitioner to show cause on 16-10-1974 why action may not be taken against him. On the same day i.e. on 15-10-74, a fresh order was passed by the learned Magistrate that a notice be given to the petitioner under Section 345, Cr PC and that he must submit his reply by 4 p. m. the very day. In response to this notice, the petitioner submitted his written reply the very day that the petitioner sent two letters to the Station House Officer, Police Station Modaran, on 8-10-1974 and 12-10-74 but the Station House Officer did not send his report along with the case diary and, therefore, he could not comply with the orders of the court as the relevant record was not in his possession or power. The learned Magistrate recorded the statement of the petitioner and dropped the proceedings against the petitioner, vide his order dated 15-10-74 While dropping he proceedings, the learned Magistrate made certain objectionable remark- against the petitioner, which are reproduced below:..and they are unable to produce is no more but an act to remain silent over it..and the prosecutor docs not produce it even after 10 days or more as happened in the instant case and gives no application, or expresses inability fur not producing, I feel it will amount to nothing but to remain silent. The silence...will amount to an act which affects the administration of justice adversely....The contention of learned A.P.P. that he sent two letters cited in his reply to the notice under Section 349, Cr.P.C 1973 is merely taking of a defence and concealing of facts and not supplying the same when they were required....If no necessary response comes from their side or response is such which annoys the Court it will amount to the causing of hinderance in the judicial proceedings.

3. Aggrieved by these remarks the petitioner has come up to this Court, Notice of this application was given to the State, non-petitioner. I have gone through the record & heard the arguments. In view of the written reply submitted by the petitioner to the show cause notice the aforesaid remarks made by the learned Magistrate were wholly unnecessary; while dropping the proceedings. The petitioner did not remain silent. He gave a written reply to the show-cause notice and answered the questions put to him in his statement. The remarks that he remained silent and did not express his inability to produce the required report are wholly unwarranted in view of his statement and the written reply, likewise the petitioner did not conceal any fact from the court and did not cause any hinderance by his conduct in the judicial proceedings or in the administration of justice. When the report was not sent by the Station House Officer, the learned Magistrate could summon the Station House Officer to produce all the relevant papers in his court. The remarks made by the learned Magistrate are neither justified on facts, nor are they necessary for the disposal of the matter. However, it may be observed that no case is made out for quashing the proceedings initiated by the learned Magistrate against the petitioner, because the proceedings have already been dropped by the learned Magistrate himself.

4. Consequently, the application under Section 482 Cr.P.C. is partly accepted and the referred to above remarks made in the order of the Judicial Magistrate, Bhinmal, dated 15th October, 1974, are hereby expunged. The prayer for quashing the proceedings started against the petitioner by the learned Magistrate is rejected.