

Vinod Tiwari vs The State Of Madhya Pradesh on 6 January, 2025

Author: Achal Kumar Paliwal

Bench: Achal Kumar Paliwal

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IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR
MCRC No. 43828 of 2024
(VINOD TIWARI Vs THE STATE OF MADHYA PRAD)

Dated : 06-01-2025

Shri Sheersh Agrawal - advocate for the applicant.

Shri Satya Pal Chadar- G.A. for the respondent/State.

Shri Ravindra Kumar Gupta, learned counsel for the objector.

ORDER

Heard on IA No. 33249/2024, an application filed by objector Sourabh Gupta seeking permission to allow him to intervene in the matter etc. Learned counsel for the objector submits that objector has invested Rs. 1000/- in Shri Swami Vivekanand Multi State Co-operative Credit Society Limited and this society has been merged into Lustiness Janhit Credit Cooperative Society Limited in the year 2016. Hence present objector is entitled to intervene in the matter and oppose the bail application filed on behalf of the applicant. It is also urged that in larger public interest, objector be allowed to intervene and argue the matter on the point of bail of applicant. It is also urged that present objector has submitted a number of complaints starting from 15.10.2020 to 03.03.2021 but no FIR has been registered pertaining to the complaint made by objector with respect to investment made by him in Shri Swami Vivekanand Multi State Co-operative Credit Society Limited.

Learned counsel for the objector, after referring to definition of "victim" as mentioned in Section 2(1)(y) of BNSS submits that anyone who has invested an amount would be considered as an affected person and therefore he would come within the purview of definition of "victim". With respect to above submissions, learned counsel for the objector has relied upon Parbatbhai Aahir @ Parbatbhai 2 MCRC-43828-2024 Bhimsinhbhai Karmu and other Vs. State of Gujarat and another, (2017) 9 SCC 641 and Criminal Appeal No. 1278/2021 (Hariram Bhambhi Vs. Satyanarayan and another) decided on 29.10.2021. On above grounds, it is urged that objector be permitted to intervene him in the matter on the point grant of bail application of applicant.

Learned counsel for the applicant submits that with respect to investment made by objector in Shri Swami Vivekanand Multi State Co-operative Credit Society Limited, FIR was registered at Police Station-Piplani, District- Bhopal and above FIR has been quashed by Coordinate Bench of this Court

vide order dated 26.06.2021 passed in MCr.C. No. 53619/2020. It is also urged that present objector has appeared before Coordinate Bench of this Court in aforesaid M.Cr.C. and in aforesaid M.Cr.C., present objector filed objection but despite that Court allowed the petition and quashed the FIR lodged at Police Station-Piplani, District- Bhopal. It is also urged that against aforesaid order, State Government filed SLP before Hon'ble Apex Court and Hon'ble Apex Court vide order dated 04.02.2022 passed in SLP (Crl.) No.- 9376/2021 did not allow the SLP and disposed of it with observation as under:-

" we are not inclined to interfere with the impugned order but observe that the impugned order would not come in the way of any third person, who is not a party to the compromise, from making a police complaint or even otherwise, the police can register first information report on any information , in accordance with law. "

On above grounds, it is urged that present objector is not entitled to appear and oppose the bail application of applicant as he has no locus standi. Therefore, IA No. 33249/2024 be dismissed.

Learned counsel for the State has submitted that present objector is not 3 MCRC-43828-2024 entitled to appear and oppose the bail application in the instant case as he has no locus standi and he is not "victim" as defined in Section 2(1)(y) of BNSS.

Heard learned counsel for the parties and perused record of the case. Perusal of the record of the case reveals that applicant Vinod Tiwari has filed present application under Section 483 of BNSS for regular bail in connection with crime No. 0649/2024 registered at Police Station Kotwali District Tikamgarh for the offence punishable under Section 111, 111(2), 111(4), 111(6), 318, 61(2), 351(2) of BNS Act.

Perusal of submissions of learned counsel for the objector as well as documents filed by the objector reveals that primary contention of learned counsel for the objector for having locus standi/being entitled to appear and oppose the bail application of applicant is on the ground that objector has invested Rs. 1000/- in Shri Swami Vivekanand Multi State Co-operative Credit Society Limited and later on, this society was merged into in Lustiness Janhit Credit Cooperative Society Limited.

With respect to aforesaid primary contention, it is evident from the documents filed by the objector itself that with respect to above investment in Shri Swami Vivekanand Multi State Co-operative Credit Society Limited, objector has repeatedly filed complaints before various authorities, including Director General/SP, Bhopal.

Further, it is also evident from order dated 26.06.2021 passed by Coordinate Bench of this Court in MCr.C. No. 53619/2020 that one FIR registered at Police Station- Piplani bearing Crime No. 1100/2020 has been quashed and learned Apex Court in SLP (Crl.) No.- 9376/2021 filed against above order, has held as under:-

" we are not inclined to interfere with the impugned order but observe

4 MCRC-43828-2024 that the impugned order would not come in the way of any third person, who is not a party to the compromise, from making a police complaint or even otherwise, the police can register first information report on any information , in accordance with law. "

Thus, as of now, with respect to investment made by objector in Shri Swami Vivekanand Multi State Co-operative Credit Society Limited, there is no FIR on record and present case pertains to FIR No. 0649/2024 and this FIR has not been lodged by the present objector. Present FIR does not pertain to various complaints made by the objector.

Therefore, in view of above factual position, present case stands squarely covered by decision of Coordinate Bench of this Court in MCr.C. No.46833/2024 (Ismile Shah Vs. The State of MP) dated 18.12.2024, wherein, it is held that :-

"The definition of the victim as provided in Section 2(y) of the BNSS does not cover in its sweep, the loss or injury which have been sustained by a person in past at the behest of the accused who is being prosecuted by some other victim subsequently. If the interpretation as proposed by the objector is taken into consideration for sake of assumption, it would open the flood gates of the litigation and the victims in past all cases will automatically be entitled to raise objection against the accused persons in the subsequent cases which are lodged against the accused persons despite the fact that such victim has no nexus with the subsequent act and has not suffered any losses or injury by the subsequent act of the same accused.

Resultantly, the application filed under Section 301(2) of Cr.P.C./Section 339 of BNSS stands dismissed."

Perusal of Parbatbhai Aahir (supra) reveals that it has nowhere dealt the issue involved in the instant case i.e. did not define the word "victim". Above case pertains to powers of High Court under Section 482 of Cr.P.C. Similarly, in the case of Hariram Bhambhi (Supra), learned Apex Court has dealt with issue pertaining to Section 15-A of SC/ST (PA) Act, hence principle laid down in the aforesaid cases, does not help objector in any way.

5 MCRC-43828-2024 Resultantly, in view of discussion in the forgoing paras as well as definition of victim as provided in Section 2(1) (y) of BNSS, present applicant cannot be treated as "victim" in the instant case.

So far as other grounds taken by the learned counsel for the objector in his submissions are concerned, in this court's considered opinion, objector cannot be permitted to appear and argue/file objection in the instant case as he has no locus standi in the instant case even on grounds as mentioned in the submissions made by the learned counsel for the objector.

Hence, in view of discussion in the forgoing para, in this court's considered opinion, objector has no locus standi in the instant case. He cannot be as treated as "victim" as defined in Section 2(1) (y) of

BNSS. He cannot appear and argue/ file objection in the instant case.

I.A. No. 33249/2024 filed by the objector is disposed of accordingly. List the case in the next week.

(ACHAL KUMAR PALIWAL) JUDGE L.R.