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**IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR**

**BEFORE
HON'BLE SHRI JUSTICE VIVEK AGARWAL
ON THE 7th OF DECEMBER, 2022**

WRIT PETITION No. 27708 of 2022

BETWEEN:-

**DESHNA JAIN D/O SURENDRA KUMAR JAIN, AGED
ABOUT 28 YEARS, OCCUPATION: STUDENT
(PREPARATION FOR PSC) R/O CIVIL WARD NO.5,
RAJEEV GANDHI COLONY NEAR BY MISSION SCHOOL
DAMOH POLICE STATION KOTWALI DAMOH DISTT.
DAMOH (M.P.)**

.....PETITIONER

(BY SHRI ANIRUDHA PRATAP SINGH BAGHEL, ADVOCATE)

AND

- 1. THE STATE OF MADHYA PRADESH THROUGH
THE PRINCIPAL SECRETARY HOME
DEPARTMENT (POLICE) VALLABH BHAWAN
BHOPAL (M.P.)**
- 2. SUPERINTENDANT OF POLICE DAMOH DISTRICT
DAMOH MADHYA PRADESH**
- 3. STATION HOUSE OFFICER POLICE STATION
KOTWALI DISTRICT DAMOH MADHYA PRADESH**

.....RESPONDENTS

(BY SHRI PIYUSH BHATNAGAR, PANEL LAWYER FOR STATE)

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*This petition coming on for admission this day, the court passed the
following:*

ORDER

This writ petition is filed under Article 226 of the Constitution of India seeking following reliefs namely:-

- (i) That, this Hon'ble Court may kindly be pleased to direct the

respondents to investigate the case in proper and fair manner and then file supplementary challan.

(ii) To issue any other writ order or direction as this Hon'ble Court may deem just and fair in the facts and circumstances of the case.

Brief facts of the present case are that petitioner had lodged FIR on 11.02.2017 under Section 67 of the Information Technology Act, 2008 alleging that some unknown persons had called her from Mobile No.7747881056 on her Phone No.7772959280. He had threatened to viral her photographs. Thereafter, she had made a complaint on 04.03.2017 to the Superintendent of Police, Damoh that certain persons had approached her with a threat to withdraw her FIR and, therefore, she prayed that it be investigated as to who are the persons who tampered with the photographs.

It is further submitted that applicant had made an application under Right to Information Act when one Arvind Kumar Dubey, Public Information Officer in the Office of Superintendent of Police, Damoh had informed her that investigation in the matter is pending at Police Station Batiagarh but the fact of the matter is that charge-sheet was filed in August, 2017 itself and thus incorrect information was given to her. In this backdrop, prayer is made as aforesaid.

Shri Piyush Bhatnagar, Panel Lawyer for the State submits that information given under Right to Information Act as contained in Annexure P-3 is incorrect then petitioner had a remedy to approach appropriate authority seeking imposition of penalty on the Public Information Officer for furnishing incorrect information but that cannot be a ground for seeking further investigation/reinvestigation/de novo investigation.

Even otherwise, whenever charge-sheet is filed, intimation is given to the complainant.

The first issue is that whether information furnished by the Public Information Officer in regard to a separate complaint made by the complainant petitioner of threat being meted out to her will found a separate cause of action or will be part of the earlier investigation in regard to offence registered under Section 67 of the Information Technology Act.

The second issue which emerges is that whether petitioner was remediless or had a remedy to approach the Trial Court and seek action against delinquents for harassing a witness in terms of the scheme of witness protection.

Shri Baghel though orally submits that summons were received by the petitioner in the year 2020 but submits that he has not filed copy of the summons. In any case, if summons were received by her in the year 2020 then there is no justification for filing a petition in the fag end of the year 2022 because she already had intimation about filing of the charge-sheet at least in the year 2020 if not earlier. Thus, it appears to be petition devoid of merit, inasmuch as, petitioner has though placed reliance on the judgment of Supreme Court in **Vinay Tyagi Vs. Isrshad Ali Alias Deepak and Others, (2013) Criminal Law Journal, 754** but even perusal of the paragraphs 14, 15 and 16 read over by Shri Baghel do not make out a case for either fresh investigation/reinvestigation/de novo investigation. This, prima facie, appears to be a petition seeking undue indulgence of the High Court.

It is evident that petitioner never made any complaint to the Trial Court that she is being harassed or her rights as a witness needs to be protected. That was within her right but she has failed to avail that remedy. Thus, her contention is that her complaint was a continuation of the earlier act is not made out.

After complainant is examined and to fill up the lacuna's this tactics appears to have been adopted by the petitioner. Petition is not only devoid of merit but it appears to be a clever device to malafidely extract further investigation when complainant herself has been examined before the Court and such device to fulfill the lacuna's in her evidence cannot be allowed in the name of further investigation/reinvestigation/de novo investigation.

Ratio of law laid down in case of **Vinay Tyagi (supra)** is categorical that continuation of the previous investigation can only be on the basis of discovery of fresh evidence and in continuation of the same offence but no such case is made out.

Such malafide petition deserves to be dismissed and is dismissed with cost of Rs.10,000/- (Rupees Ten Thousand Only) which is to be deposited in the District Legal Services Authority, Damoh within fifteen days from today. If cost is not deposited then District Legal Services Authority, Damoh shall be entitled to recover the cost from the petitioner as arrears of land revenue.

Request of Shri Baghel to waive the cost amount is not made out because in the beginning he was given an option that he has no case and he may withdraw his petition.

His request is rejected.

In above terms, petition is dismissed.

(VIVEK AGARWAL)
JUDGE