

Durgesh Kachhwaha vs The State Of Madhya Pradesh on 14 May, 2010

W.P. No.6000/2010

14.5.2010

Shri Sourabh Sharma, Advocate for the petitioner.

Shri Deepak Awasthy, Government Advocate for the
respondent/State.

Shri R.D. Bhardwaj, Town Inspector, Adhartal, Jabalpur produced Smt. Sangeeta Mahobia.

This Habeas Corpus petition has been filed by the petitioner contending that respondent No.5 has illegally detained Smt. Sangeeta Mahobia, aged 30 years.

It is averred in the petition that Smt. Sangeeta Mahobia is aunty of the petitioner. She has been illegally detained by the respondents No.5 to 7. Pursuant to notice issued by this Court corpus of Smt. Sangeeta Mahobia has been produced by respondents No.1 to 4.

Petitioner is present in person. He stated before this Court that he is simply a neighbour of Smt. Sangeeta Mahobia. He was having some kind of love relationship with Smt. Sangeeta Mahobia. He stated that though he is not in relation with Smt. Sangeeta Mahobia but used to call her husband as uncle whereas in the petition, averments has been made that Smt. Sangeeta Mahobia is aunty of the petitioner meaning thereby petitioner is nephew of Smt. Sangeeta Mahobia.

Smt. Sangeeta Mahobia is present before this Court.

She has stated that there is no relationship of her with Durgesh Kachhwaha, the petitioner in the instant writ petition. Petitioner is harassing her illegally. She is not in illegal custody of any person much less of respondents No.5 to 7. Infact the petition has been filed with evil design of harassing her. She has further stated that a false complaint was filed by the petitioner before the Superintendent of Police. Petitioner has also complained before the Superintendent of Police against her husband that he has committed her murder. For one reason or the other petitioner is harassing her for the reasons best known to him. Her harassment at the hands of petitioner be restrained.

It is apparent from the aforesaid version that this writ petition has been filed on false averments that Smt. Sangeeta Mahobia is in illegal detention of respondents No.5 to 7. Petitioner is not relative of Smt. Sangeeta Mahobia, still he has mentioned in the petition that she is his aunty, thus, he has filed false affidavit in this Court for invoking Habeas Corpus jurisdiction of this Court in order to malign Smt. Sangeeta. Thus, we order that a criminal contempt proceeding to be drawn for filing false affidavit in this Court as against the petitioner. We also impose costs of Rs.20,000/- to be paid by the petitioner to Smt. Sangeeta Mahobia for unduly harassing her and for his scandalousness effort to malign her.

Police is directed to ensure the presence of petitioner before this Court. Let criminal contempt be registered and placed for hearing on 19 t h May, 2010.

Costs is ordered to be deposited with Registrar (Judicial) within a period of 30 days from today to be paid to Smt. Sangeeta Mahobia.

Petition is dismissed with the aforesaid direction.

(Arun Mishra)
Judge

(S.C.Sinho)
Judge

Rashmi

12.5.2010

Shri Manish Verma, Advocate for the petitioner.

Shri P.K. Kaurav, Deputy Advocate General for the respondent/State.

Counsel for the respondent has prayed for time to file report and the position as to payment as ordered by this Court on 20.3.2010.

List in the last week of June, 2010.

(Arun Mishra)
Judge

(S.C.Sinho)
Judge

RC

12.5.2010

Shri A.D. Mishra, Advocate for the petitioner.

This Court cannot sit in appeal against its own order. No case is made out for interference in the Review Petition.

Thus, review petition is dismissed.

(Arun Mishra)
Judge

(S.C.Sinho)
Judge

RC

12.5.2010

Shri R.C. Shrivastava, Advocate for the petitioner.

Shri K.K. Singh, Advocate for the respondents No.1 and 2.

Shri V. Mishra, Advocate for the respondent No.3.

Review petition is filed so as to review the order passed by this Court on 5.3.2010.

It is submitted that the document P-3 was not placed on record when writ petition was decided. Whatever was submitted has been considered.

No ground is made out to review our order on the basis of document P-3. Thus, review petition is dismissed.

(Arun Mishra)
Judge

(S.C.Sinho)
Judge

RC

12.5.2010

Shri Ajay Mishra, Advocate for the petitioner.

Learned counsel for the petitioner has prayed for time for impleadment of Barkatullah University, through its Registrar.

Prayer allowed.

Let necessary amendment be carried out during course of the day.

Petitioner to serve Standing Counsel for the University.

List as prayed in the next week.

(Arun Mishra)
Judge

(S.C.Sinho)
Judge

RC

12.5.2010

Shri Manoj Jain, Advocate for the petitioner.

Shri P.K. Kaurav, Deputy Advocate General for the respondent/State.

Let copy of petition be furnished to learned counsel appearing on behalf of respondent No.2.

As prayed, list in the first week of July, 2010.

(Arun Mishra)
Judge

(S.C.Sinho)
Judge

RC

10.5.2010

Let copy of petition be furnished to counsel

appearing on behalf of respondents.

List in the next week alongwith W.P. No.5933/2010.

(Arun Mishra)
Judge

(S.C.Sinho)
Judge

RC

10.5.2010

Issue notice.

Shri P.K. Kaurav, Dy. Advocate General accepts notice on behalf of respondents No.1 to 3.

Let corpus of Smt. Sonal Agrawal be produced by respondents No.1 to 3.

Notice be issued to respondents No.4 to 5.

Steps be taken within a period of 3 days.

Let 2 copies of petition alongwith annexures be furnished to A.G. Office within a period of 3days.

List on 21 s t May, 2010.

(Arun Mishra)
Judge

(S.C.Sinho)
Judge

RC

10.5.2010

Issue notice.

Shri P.K. Kaurav, Dy. Advocate General accepts notice on behalf of respondents No.1 to 3.

Let corpus of Ku. Nidhi Mehra be produced by respondents No.1 to 3.

Notice be issued to respondents No.4 to 8.

Steps be taken within a period of 3 days.

Let 2 copies of petition alongwith annexures be furnished to A.G. Office within a period of 3days.

List on 21 s t May, 2010.

(Arun Mishra)
Judge

(S.C.Sinho)
Judge

RC

10.5.2010

Shri A.P. Singh, Advocate for the appellant. Shri Deepak Awasthy, Government Advocate for the respondent/State.

Shri Brijesh Mishra, Advocate for the Caveator. This appeal has been preferred as against the order passed by Single Bench on 10.3.2010 in Writ Petition No. 6527/2009.

The matter pertains to appointment of contract teachers in Grade-II and Grade-III in Janpad Panchayat, Shahpura, Jabalpur. Initially the appointments and the selection made for the post in question were assailed in W.P. No.7299/2008(s), decided by Single Bench of this Court and the entire process was quashed on 23.9.2008. Aggrieved thereof writ appeals were filed, the Division Bench of this Court decided writ appeals by a common order dated 4.2.2009 in W.A. No.1119/2009. The Division Bench found that the order of Collector with regard to setting aside the selection of only such employees whose selections are vitiated was proper. Accordingly in para-13, the following directions were issued by the Division Bench.

"Accordingly, we set aside the order passed by the learned Single Judge and affirm the order passed by the Collector. The persons against whom by applying the principles of weeding out it is found that their selection is proper, they will continue to remain in service and, therefore, their orders of termination are quashed. We further direct that the Collector, Jabalpur shall afford an opportunity of hearing to all such persons whose appointment are liable to be annulled on the basis of the report submitted by the Chief Executive Officer. The Collector after considering the representations so received from the employees shall pass a final and speaking order. The whole exercise shall be carried out within a period of three months from the date of receipt of order passed today. As we have set aside the order passed by the learned Single Judge, it is needless to say that selectees, against whom no report was submitted by the CEO, their services should not be terminated and they will be allowed to continue in service. However, it is also directed that the persons, in the order of the Collector dated 6.5.2008, who were not selected but were entitled to be appointed, shall also be appointed.

In the result, the present appeals are allowed. In the facts and circumstances of the case, there shall be no order as to costs."

Thereafter Collector initiated the proceedings pursuant to the directions issued in the order passed by the Division Bench. The objections were invited by the Collector from the candidates as to the list of candidates affixed on the notice board. Collector is yet to pass an order after hearing incumbents

with regard to whether appointment is required to be canceled or to be continued. Apprehending termination Writ Petition No.6527/2009 (s) was again preferred by the appellants. Same stands dismissed on the ground that final order is required to be passed by the Collector and there is remedy available under M.P. Panchayat (Appeal and Revision) Rules, 1993 Being aggrieved by the order passed by the Single Bench of this Court, the instant writ appeal is preferred.

Shri A.P. Singh, Advocate for the appellant has submitted that the name of petitioner has been mentioned as incumbents whose selection is proper as found by the order of Division Bench in W.A. No.1119/2009 and as such the Collector could not have invited the objections as to name of the appellants, the same is in contravention to the mandate of order passed by Division Bench of this Court in the writ appeal.

Shri Deepak Awasthy, Government Advocate has submitted that writ petition has been prematurely filed. Collector has not decided the validity of the list. Whatever advantage can be taken of the order passed by the Division Bench has to be considered by the Collector, thus no case is made out for interference in the order at this stage.

After hearing both the parties, in our opinion, no case to interfere in writ jurisdiction is made out at this stage, as Collector has simply made publication list and has invited objections.

In case appellant's appointment is saved by observations made by the Division Bench, it is open to them to submit the same before Collector. The Collector has to consider the effect of the order of the Division Bench of this Court and thereafter render reasoned final order. In case it is against the interest of the petitioner/appellant, it would be for them to take recourse in accordance with the law in appropriate proceeding.

In view of the aforesaid, we are not inclined to interfere in the order at this stage. Writ Appeal stands disposed of.

(Arun Mishra)
Judge

(S.C. Sinho)
Judge

RC

10.5.2010

List in the next week, as prayed by Shri Deepak Awasthy, Government Advocate for the respondent/State.

(Arun Mishra)
Judge

(S.C. Sinho)
Judge

RC

10.5.2010

Shri B.K. Rawat, Advocate for the appellant. Shri Deepak Awasthy, Government Advocate for the respondent/State.

List tomorrow i.e. 11.5.2010, as prayed by Shri Deepak Awasthy, Government Advocate for the respondent/State.

(Arun Mishra)
Judge

(S.C. Sinho)
Judge

RC

10.5.2010

List in the month of July, 2010, as prayed by Shri P.S. Nair, Senior Advocate appeared on behalf of respondents.

(Arun Mishra)
Judge

(S.C. Sinho)
Judge

RC

10.5.2010

List this case alongwith W.P. No.10263/2008.

(Arun Mishra)
Judge

(S.C. Sinho)
Judge

RC

10.5.2010

List this case alongwith W.P. No.10263/2008.

(Arun Mishra)
Judge

(S.C. Sinho)
Judge

RC

10.5.2010

List this case alongwith W.P. No.10263/2008.

(Arun Mishra)
Judge

(S.C. Sinho)
Judge

RC

10.5.2010

Shri A.P. Shrotri, Advocate for the petitioners. Learned counsel for the petitioners prays for time, in view of reply filed by the respondent No.1 Prayer allowed.

List after 7 days.

(Arun Mishra)
Judge

(S.C. Sinho)
Judge

RC

10.5.2010

Counsel for the petitioner prays for time to file rejoinder.

15 days time is granted to file the rejoinder, as prayed.

(Arun Mishra)
Judge

(S.C. Sinho)
Judge

RC

10.5.2010

Shri Vishal Dhagat, Advocate for the petitioner. Shri K.K. Singh, Advocate for the respondents. Let copy of return be furnished by learned counsel for the respondents to learned counsel for the petitioner during course of the day.

List after ensuing summer vacation.

(Arun Mishra)
Judge

(S.C. Sinho)
Judge

RC

10.5.2010

No instruction has been received by respondents No.1 to 3 inspite of the fact of the order passed by this Court.

Let remiss be explained.

List day after tomorrow.

(Arun Mishra)
Judge

(S.C. Sinho)
Judge

RC

7.5.2010

Shri Amit Jain, Advocate for the applicants. Smt. Chanchal Sharma, Government Advocate for the respondent/State.

As prayed, list in the week commencing 5.7.2010. In the meanwhile interim order dated 20.11.2009 shall remain in force till next date of hearing.

(S.C. Sinho) Judge RC 7.5.2010 Shri A.K. Gupta, Advocate for the applicant. List after summer vacation, as prayed.

(S.C. Sinho) Judge RC 7.5.2010 Shri A.K. Gupta, Advocate for the applicant. List after summer vacation, as prayed.

(S.C. Sinho) Judge RC 7.5.2010 Shri Ghanshyam Pandey, Advocate for the applicant. Smt. Chanchal Sharma, Government Advocate for the respondent/State.

Learned counsel for the State wants to call for the case diary.

Prayer allowed.

List in the week commencing 17.5.2010.

(S.C. Sinho) Judge RC 7.5.2010 Smt. Sonali Shrivastava, Advocate for the applicant. Learned counsel for the applicant submits that she has already removed the default.

Office to verify and proceed further.

(S.C. Sinho) Judge RC 7.5.2010 Shri Vishal Dhagat, Advocate for the applicant. Smt. Chanchal Sharma, Government Advocate for the respondent/State.

Learned counsel for the State wants to call for the case diary.

Prayer allowed.

List after summer vacation.

(S.C. Sinho) Judge RC 7.5.2010 Shri Vishal Dhagat, Advocate for the applicant. Smt. Chanchal Sharma, Government Advocate for the respondent/State.

Learned counsel for the State wants to call for the case diary.

Prayer allowed.

List after summer vacation.

(S.C. Sinho) Judge RC 7.5.2010 Shri V.K. Dubey, Advocate for the applicant. List after summer vacation, as prayed.

(S.C. Sinho) Judge RC 7.5.2010 Shri Ramashankar Yadav, Advocate for the applicant. Learned counsel for the applicant seeks time to file statement of witnesses recorded under section 200 and 202 of Cr.P.C. before the court below.

Prayer allowed.

List after summer vacation, as prayed.

(S.C. Sinho) Judge RC 7.5.2010 Shri K.L. Gupta, Advocate for the applicants. Heard.

Issue notice to the respondent on payment of P.F. within 7 days by ordinary post as well as by Registered A.D. Post, failing which this petition shall stand dismissed without further reference to the Bench.

Heard on I.A. No.1856/2010, an application for grant of stay.

Further proceedings in the R.T. No.11376/2009 pending before Judicial Magistrate First Class, Bhopal shall remain stayed till next date of hearing.

List in the week commencing 5.7.2010. C.C. as per rules.

(S.C. Sinho) Judge RC 7.5.2010 Shri Pratyush Tiwari, Advocate for the applicant. As prayed by learned counsel for the applicant, list after a week.

(S.C. Sinho) Judge RC 7.5.2010 Shri Bramhadatt Singh, Advocate for the applicant. Shri Pratyush Tiwari, Advocate for the respondent. As prayed by learned counsel for the respondent, list after a week alongwith M.Cr.C. No.1190/2009 for analogous hearing.

(S.C. Sinho) Judge RC 7.5.2010 Shri Bramhadatt Singh, Advocate for the applicant. Shri Pratyush Tiwari, Advocate for the respondent. As prayed by learned counsel for the respondent, list after a week.

(S.C. Sinho) Judge RC 7.5.2010 Shri Amit Jain, Advocate for the petitioner. The default shown by the Registry is ignored. Issue notice to respondents No.2 and 3 on payment of P.F. within 7 days by ordinary post as well as by Registered A.D. Post.

Heard on I.A. No.7276/2010, an application for grant of stay.

Further proceedings in the S.T. No.242/2008 pending before Additional Sessions Judge, Begamganj, shall remain stayed till next date of hearing.

List in the week commencing 5.7.2010. C.C. as per rules.

(S.C. Sinho) Judge RC 7.5.2010 Shri Deepak Vohra, Advocate for the petitioner. Notice to respondent is awaited. List in the week commencing 5.7.2010. Interim relief dated 12.4.2010 shall remain in force till next date of hearing.

(S.C. Sinho) Judge RC 7.5.2010 Shri Deepak Vohra, Advocate for the petitioner. Notice to respondent is awaited. List in the week commencing 5.7.2010. Interim relief dated 12.4.2010 shall remain in force till next date of hearing.

(S.C. Sinho) Judge RC 7.5.2010 Shri Deepak Vohra, Advocate for the petitioner. Notice to respondent is awaited. List in the week commencing 5.7.2010. Interim relief dated 12.4.2010 shall remain in force till next date of hearing.

(S.C. Sinho) Judge RC 7.5.2010 Shri Priyank Awasthy, Advocate for the appellant. Shri S.K. Rai, Government Advocate for the respondent/ State.

Learned counsel for the appellant has submitted that the appellant has died in the year 1996 and he is ready to furnish his death certificate.

Learned Government Advocate has requested that fact of death may be verified.

It is true that the appellant has not appeared before this Court since December 1996.

Learned Government Advocate for the State is directed to get verification from the concerned authority regarding death of the appellant and submit report of concerned authority within two months from today.

Case be listed after vacation.

(N.K. Gupta) Judge 7.5.2010 None for the applicant.

Shri Abhinav Dubey, Advocate for the respondent. Respondent has filed I.A. No.3785/2010 for vacating stay order dated 16.9.2009.

There is no reason to vacate the stay. However, the case is listed for final hearing at the motion stage.

List in the week commencing 28.6.2010.

(S.C. Sinho) Judge RC 7.5.2010 Shri Ravindra Bisen, Advocate for the applicant. This is an application under section 439 of Cr.P.C. Office is directed to list this case before appropriate Bench.

(S.C. Sinho) Judge RC 7.5.2010 Shri K.K. Gautam, Advocate for the applicant. Learned counsel for the applicant wants to withdraw this petition.

Prayer allowed.

Accordingly, petition is dismissed as withdrawn.

(S.C. Sinho) Judge RC 7.5.2010 Shri Sanjay Singh, Advocate for the applicants. Issue notice to the respondent on payment of P.F. within a period of 7 days by ordinary post as well as by Registered A.D. Post.

Heard on I.A.No.6767/2010, an application for grant of stay.

Execution of order dated 20.4.2006 and 23.4.2010 is stayed till next date of hearing.

List after summer vacation. C.C. as per rules.

(S.C. Sinho) Judge RC 7.5.2010 Shri Rajkamal Chaturvedi, Advocate for the applicant. Learned counsel for the applicant prays for time to argue the case.

As prayed, list after a week.

(S.C. Sinho) Judge RC 7.5.2010 Shri Ashish Kurmi, Advocate for the applicants. As prayed, list after summer vacation.

(S.C. Sinho) Judge RC 7.5.2010 Shri P.C. Paliwal, Advocate for the applicant. Record of court below be called for. I.A. No.6946/2010 will be heard alongwith the record. List in the week commencing 28.6.2010.

(S.C. Sinho) Judge RC 7.5.2010 Shri Ashok A. Tiwari, Advocate for the applicant. Shri Arvind Singh, Panel Lawyer for the respondent/State.

Learned counsel for the State wants to call for the case diary.

Prayer allowed.

List in the week commencing 28.6.2010.

(S.C. Sinho) Judge RC 7.5.2010 Shri Dileep Pandey, Advocate for the applicant. Learned counsel for the applicant seeks time to file appropriate application for conversion of this petition into criminal revision.

Prayer allowed.

List after summer vacation.

(S.C. Sinho) Judge RC 6.5.2010 None for the applicant.

Shri Saket Agrawal, Advocate for the respondent. None appeared for the applicant today and also on 4.5.2010 even after repeated calls.

Interim relief granted vide order dated 27.8.2008 is not extended.

List in due course.

(S.C. Sinho) Judge RC 6.5.2010 Shri Aseem Dixit, Advocate for the applicants. Shri Chanchal Sharma, Government Advocate for the respondent/State.

Learned counsel for the applicants submitted that only applicant No.1 Yogendra and applicant No.2 Kunjilal were accused in crime No.96/2002 under section 498 A of IPC which was pending before Judicial Magistrate First Class, Nagpur. Learned Advocate further stated that applicant No.1 and 2

are acquitted vide judgment dated 30.4.2009 in crime No.96/2002 by Judicial Magistrate First Class, Nagpur, whereas apart from applicants No.1 and 2, applicants No.3 to 6 are impleaded as accused by respondent No.2 in criminal case No. 1114/2002 before Judicial Magistrate First Class, Sagar, it is still pending.

Learned counsel for the applicants seeks to withdraw the petition with a liberty to take all these objections at appropriate stage before the court below in criminal case No.1114/2002 in accordance with the law.

With the aforesaid liberty, petition is dismissed as withdrawn.

(S.C. Sinho) Judge RC 6.5.2010 Shri Sameer Seth, Advocate for the applicants. After arguing at length, learned counsel for the applicants seeks to withdraw the petition with a liberty to take all these objections at appropriate stage before the court below in accordance with the law.

If any such application is filed by the applicants, the same may be considered by the court below in accordance with the law.

With the aforesaid liberty, petition is dismissed as withdrawn.

(S.C. Sinho) Judge RC 5.5.2010 Shri H.R. Naidu, Advocate for the applicant. Heard on admission.

Applicant has filed this petition under Section 482 of the Cr.P.C against the order dated 5.11.2009 passed by Additional Sessions Judge, Jabalpur in criminal revision No. 153/2009 and order dated 12.8.2009 passed by Judicial Magistrate First Class, Jabalpur in Criminal case No.17201/2007 where his application for producing 6 defence witnesses was dismissed by both the courts below.

Applicant is facing R.T. No.17201/2007 under section 138 of Negotiable Instruments Act from last 3 years. Applicant has filed an application for summoning 6 witnesses as defence witnesses. Both the courts have held that applicant has filed the application for summoning 6 witnesses only for delaying the disposal of the case. This case u/s. 138 of Negotiable Instruments Act is pending since 2007 before the Judicial Magistrate First Class, Jabalpur.

It is settled position that the inherent powers are exercised for the limited purpose sparingly where there is an apparent mis-carriage of justice. Further, the second revision is barred under Section 397 (3) of the Cr.P.C and the power of Section 482 Cr.P.C is not exercised to circumvent the bar of second revision under Section 397 (3) of the Cr.P.C as held by Apex Court in Madhu Limaye Vs. State of Maharashtra, AIR 1978 SC 47 .

On facts and in the circumstances, no case is made out for exercising the jurisdiction under Section 482 of Cr.P.C. to quash the order dated 12.8.2009 passed by Trial Judge as well as the order dated 5.11.2009 passed by revisional court. Consequently, the petition fails and is hereby dismissed at the motion stage.

(S.C. Sinho) Judge RC 5.5.2010 Shri A. Usmani, Advocate for the applicant. Learned counsel for the applicant does not want to press I.A. No.665/2010 for modification of the order dated 18.11.2009 with a liberty to file another application.

Prayer allowed.

Accordingly, I.A. No. 665/2010 is dismissed as not pressed with the aforesaid liberty.

(S.C. Sinho) Judge RC 5.5.2010 Smt. Chanchal Sharma, Government Advocate for the applicant/State.

Heard on I.A. No.860/2010, an application for condonation of delay of 28 days in filing this appeal against judgment of acquittal.

For the reasons stated in the application and application being supported by affidavit of N.K. Parihar, S.D.O. (Police), delay is condoned.

I.A. No.860/2010 is allowed. List the case for admission.

(S.C. Sinho) Judge RC 5.5.2010 Shri P.L. Pandey, Advocate for the applicants. Learned counsel for the applicants has moved I.A. No.6411/2010, an application treating this case to be criminal revision in place of application u/s. 482 of Cr.P.C.

For the reasons stated in the application I.A. No.6411/2010 is allowed.

Office to do the needful.

List this case in the week commencing 10.5.2010 before appropriate Bench.

(S.C. Sinho) Judge RC 5.5.2010 Shri Rakesh Pandey, Advocate for the applicants. Heard on admission.

Applicants have filed this petition under Section 482 of the Cr.P.C against the order dated 7.10.2009 passed by Additional Sessions Judge, Kotma in criminal revision No. 92/09 and order dated 20.8.2009 passed by Judicial Magistrate First Class, Kotma in criminal case No.1648/2006.

Learned counsel for the applicants submitted that criminal case No.1648/2006 is pending since 1995 and on the date of final hearing trial Court summoned prosecution witnesses Rajendra Kumar and Gannu Lal.

Section 311 of Cr.P.C. reads as under :

"311. Power to summon material witness, or examine person present. - Any Court may, at any stage of any inquiry, trial or other proceeding under this Code, summon

any person as a witness, or examine any person in attendance, though not summoned as a witness, or recall and re-examine any person already examined ; and the court shall summon and examine or recall and re- examine any such person if his evidence appears to it to be essential to the just decision of case."

On going through the aforesaid section, it is clear that Court may re-examine any such person, if his evidence appears to it to be essential.

Learned counsel for the applicants placed reliance on Satyajit Banerjee Vs. State of West Bengal 2005 (1) SCC

115. In this case such powers should be used in extraordinary situation.

It is settled position that the inherent powers are exercised for the limited purpose sparingly where there is an apparent mis-carriage of justice. Further, the second revision is barred under Section 397 (3) of the Cr.P.C and the power of Section 482 Cr.P.C is not exercised to circumvent the bar of second revision under Section 397 (3) of the Cr.P.C as held by Apex Court in Madhu Limaye Vs. State of Maharashtra, AIR 1978 SC 47 .

On facts and in the circumstances, no case is made out for exercising the jurisdiction under Section 482 of Cr.P.C. to quash the order dated 20.8.2009 passed by Trial Judge as well as the order dated 7.10.2009 passed by revisional court. Consequently, the petition fails and is hereby dismissed at the motion stage. However, the court is directed to dispose of the R.T. No.1648/2006 as expeditiously as possible because it is pending from last 4 years.

(S.C. Sinho) Judge RC 5.5.2010 Shri Ajay Mishra, Advocate for the applicants. Learned counsel for the applicants seeks time to file correct address of respondent No.2.

After correct address is mentioned, then issue notice on correct address on payment of P.F. within a period 7 days by ordinary post as well as by registered A.D. Post.

If learned counsel for the applicants fails to file correct address of respondent No.2, then the stay order dated 1.11.2006 will be vacated.

(S.C. Sinho) Judge RC 5.5.2010 Shri Rajesh Nema, Advocate for the applicant. Issue fresh notice to the respondent on payment of P.F. Within 7 days by ordinary post as well as by registered A.D. post.

(S.C. Sinho) Judge RC 5.5.2010 Shri P.S. Tiwari, Advocate for the applicant. Shri A. Usmani, Advocate for the respondents No.1 to 6. Shri Arvind Singh, Panel Lawyer for the respondent/State.

Learned counsel for the applicant is directed to supply copy of FIR to learned counsel for the respondents No.1 to 6 during course of the day.

As prayed, list this case in the week commencing 17.5.2010.

Interim relief dated 19.3.2007 shall remain in force till next date of hearing.

(S.C. Sinho) Judge RC 5.5.2010 Shri S.R. Kushwaha, Advocate for the applicant. Let default be removed within a period of 7 days, failing which the petition shall stand dismissed without further reference to the Bench.

(S.C. Sinho) Judge RC 5.5.2010 None for the applicant.

Learned counsel for the applicant is directed to comply order dated 29.7.2009, 31.7.2009 and 24.8.2009 within a period of 15 days, failing which the petition shall dismissed without further reference to the Bench.

(S.C. Sinho) Judge RC 5.5.2010 Shri Ajay Mishra, Advocate for the petitioner. Learned counsel for the applicant prays for time to file certified copy of the order dated 8.10.2009.

Prayer allowed.

List after summer vacation.

(S.C. Sinho) Judge RC 5.5.2010 Shri Manoj Rajak, Advocate for the applicants. Learned counsel for the applicants submits that he has already removed the default.

Office to verify and list this case for admission after summer vacation.

(S.C. Sinho) Judge RC 5.5.2010 None for the petitioners.

Let default be removed within a period of 15 days, failing which the petition shall stand dismissed without further reference to the Bench.

(S.C. Sinho) Judge RC 5.5.2010 None for the petitioner.

Let default be removed within a period of 15 days, failing which the petition shall stand dismissed without further reference to the Bench.

(S.C. Sinho) Judge RC 5.5.2010 Shri Sandeep Singh, Advocate for the applicant. Learned counsel for the applicant submits that he has already removed the default today.

Office to verify and list this case in the week commencing 17.5.2010.

(S.C. Sinho) Judge RC 5.5.2010 None for the petitioner.

Let default be removed within a period of 15 days, failing which the petition shall stand dismissed without further reference to the Bench.

(S.C. Sinho) Judge RC 5.5.2010 None for the petitioner.

Let default be removed within a period of 15 days, failing which the petition shall stand dismissed without further reference to the Bench.

(S.C. Sinho) Judge RC 5.5.2010 Shri Ajay Ojha, Advocate for the applicant. Learned counsel for the applicant wants to withdraw this petition with a liberty to move an appropriate application before the Court below for settlement of the case in the Lok- Adalat.

With the aforesaid liberty, petition is dismissed as withdrawn.

(S.C. Sinho) Judge RC 5.5.2010 Shri Sandeep Singh, Advocate for the applicant. Shri Arvind Singh, Panel Lawyer for the respondent/State.

Learned counsel for the State want to call for the case diary of crime No.70/2010 of Police Station Ashbagh, Bhopal.

Prayer allowed.

As prayed, list in the week commencing 17.5.2010. I.A. No.6409/2010 will be considered on the next date.

(S.C. Sinho) Judge RC 5.5.2010 Shri Anand Nayak, Advocate for the applicant. Record of the court below be called for. I.A. 6499/2010 will be considered on the next date. List after summer vacation.

(S.C. Sinho) Judge RC 5.5.2010 Shri Sardar Avtar Singh, Advocate for the applicant. Learned counsel for the applicant has filed I.A. No.6515/2001 for condonation of delay.

Issue notice to respondent No.1 on payment P.F. within 7 days by ordinary post as well as by Registered A.D. Post that why I.A. No.6515/2010 should not be admitted.

(S.C. Sinho) Judge RC 04.05.2010 (Later on) Applicant Mahindra Nath Bajpai is present person. Applicant submitted that earlier on 28.4.2008, this Court directed Registrar General of this Court to send the copy of Enquiry Report regarding complaint made by applicant against 9th Additional Motor Accident Claims Tribunal.

Registrar General is directed to send the copy of aforesaid Enquiry Report if completed before 22.6.2010.

He further submitted that I.A. No.6499/2008 is still pending before this Court.

I.A. No.6499/2008 will also be considered on the next date.

Copy of ordersheet dated 28.4.2008 be sent to Registrar General.

(S.C. Sinho) Judge RC 4.5.2010 Smt. Sudha Pandit, Advocate alongwith Sushri Janavi Pandit, Advocate for the applicant.

Learned counsel for the applicant wants to withdraw this petition with a liberty to file a fresh application under section 407 of Cr.P.C. before the Indore Bench.

With the aforesaid liberty petition is dismissed as withdrawn.

(S.C. Sinho) Judge RC 4.5.2010 Shri S.C. Datt, Sr. Advocate with Shri Ajay Mishra, Advocate for the applicants.

Smt. Chanchal Sharma, Government Advocate for the respondent/State.

Shri Anand Nayak, Advocate for the respondent No.2. Learned counsel for the applicants seeks time to file reply.

Prayer allowed.

List in the week commencing from 10.5.2010.

(S.C. Sinho) Judge RC 04.05.2010 Shri Ramesh Tamrakar, Advocate for the petitioner. Smt. Chanchal Sharma, Government Advocate for the respondent/State.

Notice to respondent No.1 is awaited. Issue fresh notice to the respondent No.1 by registered A.D. Post on payment of P.F. Interim relief dated 18.3.2010 shall remain in force till next date of hearing.

List in the week commencing from 28.6.2010.

(S.C. Sinho) Judge RC 4.5.2010 None for the petitioners.

Smt. Chanchal Sharma, Government Advocate for the respondent/State.

Since none appeared for the petitioners, it seems that petitioners are not interested in prosecuting the case.

Accordingly, petition is dismissed for want of prosecution.

(S.C. Sinho) Judge RC 3.5.2010 Smt. Chanchal Sharma, Government Advocate for the applicant/State.

State has filed this case under section 378(III) Cr.P.C. for grant of leave to appeal against the judgment of acquittal dated 10.6.2009.

Issue notice to respondents that why this petition should not be admitted.

List in the week commencing 17.5.2010.

(S.C. Sinho) Judge RC 3.5.2010 Shri P.S.Tiwari, Advocate for the applicants. Heard.

Admit.

Heard on I.A. No.145/2010, an application for staying further proceeding in S.T. No.82/2009.

Learned Sessions Judge is directed not to deliver the judgment in S.T. No.82/2009 till next date of hearing.

It is made clear that learned Sessions Judge will be free to record the evidence in S.T. No.82/2009.

(S.C. Sinho) Judge RC 3.5.2010 Shri P.S.Tiwari, Advocate for the applicant. Shri G.P. Tripathi, Advocate for the respondent. Learned counsel for the applicant submits that he wants to withdraw this petition with the liberty that direction be given to Court below that if applicant appears before the Court below on or before 7.5.2010 and moves an appropriate application, the court below will sympathetically decide the same.

Learned counsel for the respondent submitted that complaint Case No.10280/2007 is pending since 2004 and applicant is unnecessarily delaying the proceeding.

If applicant appears before the Court below and moves an application, the Court below will decide it sympathetically, at the same time it is directed that the Court below will dispose of the complaint Case No.10280/2007 expeditiously.

According, this petition is dismissed as withdraw with the aforesaid liberty.

(S.C. Sinho) Judge RC 3.5.2010 Shri Dhanraj Singh, Advocate for the applicant. Sushri Zuveria Khan, Advocate for the respondents. As prayed by learned counsel for the applicant, list after summer vacation.

(S.C. Sinho) Judge RC 3.5.2010 Shri Pankaj Dixit, Advocate for the applicant. Shri Pradeep K. Rai, Advocate for the respondent. Learned counsel for the parties wants to go through the record.

Prayer allowed.

List after summer vacation.

(S.C. Sinho) Judge RC 3.5.2010 Shri Umesh Shrivastava, Advocate for the applicant. Shri Arvind Singh, Panel Lawyer for the respondent/State.

Inspite of order dated 19.4.2010, neither the case diary is produced nor the Investigating Officer is present before this Court.

Learned counsel for the State is directed to call for the case diary and also to keep Investigating Officer present on the next date i.e. 14.5.2010.

(S.C. Sinho) Judge RC 3.5.2010 Smt. Chanchal Sharma, Government Advocate for the applicant/State.

Shri R.P. Agrawal, Senior Counsel alongwith Shri Abhijeet Dubey, Advocate for the respondents No.1 and 2.

Learned counsel for the State wants to go through the record.

Prayer allowed.

List after summer vacation.

(S.C. Sinho) Judge RC 3.5.2010 Ms. Sangeeta Sharma, Advocate for the applicant. None for the respondent No.1 to 5. List after summer vacation.

(S.C. Sinho) Judge RC 3.5.2010 Shri Mahendra Pateriya, Advocate for the applicant. Shri Satyam Agrawal, Advocate for the respondent. List after summer vacation.

(S.C. Sinho) Judge RC 3.5.2010 Shri Subodh Gautam, Advocate for the applicant. As prayed, list after 2 weeks.

(S.C. Sinho) Judge RC 3.5.2010 Ku. Veenita Kevat, Advocate for the applicant. As prayed, list after 2 weeks.

(S.C. Sinho) Judge RC 3.5.2010 Shri Amit Upadhyay, Advocate for the applicant. As prayed, list after summer vacation.

(S.C. Sinho) Judge RC 3.5.2010 Sushri Chhoti Kushwaha, Advocate for the applicant. Learned counsel for the applicant prays for time. Prayer allowed.

List after summer vacation.

(S.C. Sinho) Judge RC 3.5.2010 Shri Rajrup Patel, Advocate for the applicant. Learned counsel for the applicant seeks time to go through the record.

Prayer allowed.

List after summer vacation.

(S.C. Sinho) Judge RC 3.5.2010 Shri Anil Mishra, Advocate for the applicant. As prayed, list after summer vacation.

(S.C. Sinho) Judge RC 3.5.2010 None for the applicant.

Shri Nitin Shukla, Advocate for the respondents. List after summer vacation.

(S.C. Sinho) Judge RC 3.5.2010 Shri K.D. Singh, Advocate for the applicant. Smt. Chanchal Sharma, Government Advocate for the respondent/State.

As prayed by learned counsel for the applicant, list after summer vacation.

(S.C. Sinho) Judge RC 3.5.2010 Shri Santosh Meshra, Advocate for the applicants. Shri N.K. Jain, Advocate for the respondent No.1. Smt. Chanchal Sharma, Government Advocate for the respondent/State.

As prayed by learned counsel for the applicants, list this case in the week commencing from 28.6.2010.

Interim relief dated 26.10.2009 shall remain in force till next date of hearing.

(S.C. Sinho) Judge RC 3.5.2010 Shri A.K. Jain, Advocate for the applicant. Smt. Chanchal Sharma, Government Advocate for the respondent/State.

Learned counsel for the State prays for time to seek instructions from non-applicant No.2.

Prayer allowed.

Interim relief dated 27.10.2009 shall remain in force till next date of hearing.

List this case in the week commencing from 17.5.2010.

(S.C. Sinho) Judge RC