

Deepak vs The State Of Madhya Pradesh on 8 December, 2022

Author: Anil Verma

Bench: Anil Verma

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IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE
BEFORE
HON'BLE SHRI JUSTICE ANIL VERMA
ON THE 8th OF DECEMBER, 2022
MISC. CRIMINAL CASE No. 54602 of 2021

BETWEEN: -

RAJAT S/O RAJENDRA SINGH, AGED ABOUT 26 YEARS,
OCCUPATION: BUSINESS, R/O- A-51, CHHATRA CHHAYA
COLONY, PITHAMPUR, DISTRICT - DHAR (MADHYA
PRADESH)

.....PETITIONER

(BY MS. ARCHANA MAHESHWARI-ADVOCATE)

AND

THE STATE OF MADHYA PRADESH STATION HOUSE
OFFICER THRU. PS. SECTOR NO. 1 PITHAMPUR DHAR
(MADHYA PRADESH)

.....RESPONDENTS

(BY SHRI SANTOSH SINGH THAKUR-GOVERNMENT ADVOCATE).

MISC. CRIMINAL CASE No. 54552 of 2021

BETWEEN: -

DEEPAK S/O OMPRAKASH KUSHWAH, AGED ABOUT 26
YEAR S , OCCUPATION: DRIVER VILALGE AKOLIYA,
PITHAMPUR, DISTT. DHAR (MADHYA PRADESH)

.....PETITIONER

(BY MS. ARCHANA MAHESHWARI-ADVOCATE).

AND

THE STATE OF MADHYA PRADESH STATION HOUSE
OFFICER THRU. PS. SECTOR NO. 1 PITHAMPUR DHAR
(MADHYA PRADESH)

Signature Not Verified

Signed by: BHUVNESHWAR

DATT JOSHI

Signing time: 12/9/2022

7:51:29 PM (BY SHRI SANTOSH SINGH THAKUR-GOVERNMENT ADVOCATE).

.....RESPONDENT

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

ORDER

Both the applicants have filed the present petition under Section 482 of Code of Criminal Procedure, 1973 (in short Cr.P.C) for quashment of F.I.R bearing crime No.80/2021 registered at Police Station-Sector 1 Pithampur, District-Dhar for commission of offence punishable under Sections 420, 272, and 273 of Indian Penal Code (in short IPC).

The brief facts of the case are that on 20/2/2021 complainant Food Safety Officer Sachin Longariya inspected the Rajat Ice Factory, situated at Sector 1 Pithampur and he has lodged the FIR at Police Station-Sector 1, Pithampur by stating that both the applicants were manufacturing and selling the Ice Candy and Rajat Soda Lemon and Rajat Soda Masala Jeera and other food products without having any valid license under the Food Safety Standard Act, 2006. They also illegally used artificial sweetener Sachharin, batch number, manufacturing and expiry date were also not mentioned in the packaging of the aforesaid food products and accordingly they have cheated the public. Offence under Section 420, 272, 273 against both the applicants.

Learned counsel for both the applicants contended that there is no prima facie evidence available on record which shows that both the applicants had committed any offence under Section 420, 272, 273 of IPC. Nothing adulterated or sub standard food article has been seized from the possession of the applicant. Applicant Deepak is only the driver and he has no connection with the affairs of the factory. Therefore, he prays that FIR dated 20/2/2021, Signature Notregistered Verified at Police Station -Sector 1, Pithampur be quashed. Signed by: BHUVNESHWAR DATT JOSHI Per contra, learned Government Advocate for the respondent/State Signing time: 12/9/2022 7:51:29 PM opposes the bail application and prays for its rejection by submitting that there is sufficient material on record to connect both the applicants with the aforesaid crime.

I have heard the learned counsel for both the parties and perused the case diary and other documents filed by the applicants.

Learned counsel for the applicants contended that applicant Rajat have valid license under Food Safety and Standard Act, 2006 but on perusal of the said license it appears that the license has been issued only for the commerce and carrying the food business for the period of 5 years, which starts from 3/10/2020 but both the applicants did not file any relevant documents or annexures to establish that according to the above food license Rajat is duly authorised for manufacturing of the Ice Candy and different types of Lemon Soda.

Learned counsel for the applicants submit that as per the report of the Food Analyst nothing has been found adulterated or sub-standard from the possession of the applicants but as per the Food Analyst report artificial sweetener sachharin has been found positive. Batch number, manufacturing and expiry date has been not mentioned as per the law in the product prepared by the applicants, therefore, at this stage it is not established that the seized articles from the possession of the present applicants are fit for human consumption and not treated as sub-standard and adulterated.

The other defence taken by the applicants may be considered at the time of evidence produced by both the parties. At this stage such defence cannot be considered.

Thus invocation of power under section 482 of Cr.P.C. will not prevent the abuse of process of law in the present facts and circumstances of the case rather it will be a misuse.

In the case of Gian Singh Vs. State of Punjab and another AIR 2012 SC criminal 1796 the Hon'ble Apex Court at para 57 pleased to observed as under:

"57. The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. In what cases power to quash the criminal proceeding or complaint or F.I.R may be exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have Virendra singh adhikari 2014.03.20 16:28 I attest to the accuracy and integrity of this document High Court Chandigarh settled the dispute. Such offences are not private in nature and have serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity etc; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and predominately civil flavour stand on different footing for the purposes of quashing, particularly the offences arising from commercial, financial, offences arising out of matrimony relating to dowry, etc. or the 7:51:29 PM family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the

above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding."

Having carefully examined the law laid down by the Honâ€™ble Apex court in the case of Gian Singh (supra) and upon consideration of the material available on record, it is clear that interference under Section 482 of Cr.P.C. is not warranted.

Consequently this petition under section 482 of Cr.P.C. is hereby dismissed. Let a copy of this order be sent to the trial court for necessary information.

C.C. as per rules.

(ANIL VERMA) JUDGE Pramod