

ITEM NO.3 Court 13 (Video Conferencing)

SECTION II-A

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Cr1.) No(s). 1345/2019

(Arising out of impugned final judgment and order dated 11-09-2018 in MCRC No. 12592/2018 passed by the High Court Of M.P. at Gwalior)

SURENDRA SINGH GAUR

Petitioner(s)

VERSUS

THE STATE OF MADHYA PRADESH & ORS.

Respondent(s)

WITH

SLP(Cr1) No. 8982/2018 (II-A)

IA No. 140794/2018 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT

IA No. 140795/2018 - EXEMPTION FROM FILING O.T.)

Date : 18-01-2022 These petitions were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE AJAY RASTOGI
HON'BLE MR. JUSTICE ABHAY S. OKA

For Petitioner(s) Ms. Deeksha Mishra, Adv.
Mr. Jai Bansal, Adv.
Mr. Tarun Satija, Adv.
Ms. Pyoli, AOR

Mr. Abhay Kumar, AOR
Mr. Saurabh Mishra, Adv.
Mr. Kumar Milind, Adv.
Mr. Shagun Ruhil, Adv.
Mr. Vishal Nautiyal, Adv.

For Respondent(s) Mr. Saurabh Mishra, AAG
Mr. Gopal Jha, AOR
Mr. Gautam Singh, Adv.
Mr. Shreyash Bhardwaj, Adv.
Mr. Nishant Verma, Adv.

Mr. Anil Kumar Gautam, AOR

UPON hearing the counsel the Court made the following
O R D E R

Both the petitions have been preferred by the senior police officers of the State of Madhya Pradesh assailing the observations which has been made by the High Court under the impugned judgment dated 11th September, 2018 while exercising its jurisdiction under Section 482 of the Code of Criminal Procedure, when the accused persons approached the High Court for quashing of the proceedings initiated against them in reference to the FIR in Crime No. 75/2017, registered at Police Station Godan, District Datia, for the offences punishable under Sections 307, 294 and 34 of the Indian Penal Code.

At the outset it may be noticed that the State of Madhya Pradesh also approached this Court by filing Special Leave Petition (Criminal) No. 10015 of 2018 and that came to be dismissed by an order dated 30th November, 2018.

The present petitioners have approached in their own rights to question the observations/remarks which have been recorded by the learned Judge in the order impugned in reference to the manner in which an inquiry was conducted parallel to the investigation which was undertaken by the Investigating Officer in reference to FIR in Crime No. 75/2017.

We have heard the learned Counsel for the parties at length and we are of the view that neither Section 36 of the Code nor the circulars of which a reference has been made during the course of arguments in any way provides for holding an independent and

parallel inquiry along with the investigation going ahead in reference to the FIR in Crime No. 75/2017.

In the instant case, a complaint was made for holding fair investigation in reference to the FIR in Crime No. 75/2017, we find no reason the officers under whose instructions an independent inquiry was initiated apart from the investigation which was going ahead in reference to the crime, in contravention of the procedure prescribed by law.

After the matter is examined at length by the High Court under the impugned judgment(s) for which reference has been made that an independent inquiry which was conducted in reference to the FIR in Crime No. 75/2017 was in no manner contemplated by law and in this reference observations have been made in regard to the conduct of the officers in holding an inquiry in reference to the FIR in Crime No. 75/2017.

The learned Counsel appearing on behalf of the State filed their counter affidavit and has placed on record a circular dated 26th June, 2010 under the instructions of the Inspector General of Police, Madhya Pradesh. We find that the circular of the State Government is in conformity with Section 36 of the Code, but the procedure which was followed by the officers in holding inquiry was not in consonance with the circular of which a reference has been made by the High Court under the impugned judgment.

After hearing the learned Counsel for the parties and taking note of the material on record, we find no error being committed by the High Court in the judgment impugned, which may call for our interference under Article 136 of the Constitution.

Consequently, both the petitions fail and are dismissed.

Pending application(s), if any, shall stand disposed of.

(MANISH ISSRANI)
COURT MASTER (SH)

(BEENA JOLLY)
COURT MASTER (NSH)