



IN THE HIGH COURT OF MADHYA PRADESH  
AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE G. S. AHLUWALIA

ON THE 18<sup>th</sup> OF NOVEMBER, 2024

CRIMINAL REVISION No. 5719 of 2024

*PRADEEP SHARMA*

*Versus*

*THE STATE OF MADHYA PRADESH*

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Appearance:

Shri Rajiv Sharma - Advocate for the petitioner.

Shri Ajay Kumar Nirankari- Government Advocate for the State.  
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ORDER

This criminal revision under Section 397, 401 Cr.P.C. has been filed against the order dated 07/11/2024 passed by Special Judge (MPDVPK Act) Shivpuri in S.T. No. 10/2020 by which an application filed by applicant under Section 311 of Cr.P.C. for summoning Shri Kamal Maurya, Additional S.P. Shivpuri has been rejected.

It is submitted by counsel for petitioner that during the course of investigation, Shri Kamal Maurya, Additional S.P. had conducted a parallel enquiry under the orders of the then S.P., Shivpuri. Since, he had found that allegations, which are being made by the witnesses are false, therefore, he had exonerated the applicant and, therefore, he is an important witness to prove the innocence of applicant.

It is submitted that Trial Court has rejected the application primarily on the ground that the trial is pending for the last 4 years and co-accused Veerendra and Devendra are in jail for the last more than 2 years and under the orders of High Court, the trial is to be decided at the earliest.



Challenging the aforesaid order, it is submitted by counsel for applicant that early disposal of a case cannot be ground to reject the application. The application should have been decided on merits whereas, it appears that the Trial Court was swayed away by the fact that the case is to be decided as earliest.

*Per contra*, the revision is vehemently opposed by counsel for the state.

Heard the learned counsel for the parties.

The primary question for consideration is as to whether during the pendency of investigation, the S.P. can direct to conduct a parallel enquiry or not?

This Court in the case of **Deepak @ Preetam Verma and another V/s State of M.P. and another** by order dated 11/09/2018 passed in MCRC No. 12592/2018 has held that parallel enquiry under Section 36 of Cr.P.C. during the pendency of investigation is not maintainable. The said order has been affirmed by Supreme court by order dated 18/01/2022 passed in **SLP (criminal) No. 1345/2019 (Surendra Singh Gaur V/s State of M.P. and others)** and held as under -

"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."

Thus, it is clear that during the pendency of the investigation, a parallel enquiry is not permissible. Thus, summoning of Kamal Maurya who had conducted a parallel enquiry dehors the provision of law would not serve any purpose and in case, if Kamal Maurya is permitted to be examined as a witness then, it would amount to approving or justifying the report submitted by him in a parallel enquiry, which is forbidden under the law. Furthermore, whatever opinion might have been drawn by Shri Kamal Maurya would be opinion of the witness which has not relevance in the eye of law.

Accordingly, this Court is of considered opinion that the trial court did not commit any mistake by rejecting the application filed under section 311 of Cr.P.C. Accordingly, the order dated 07/11/2024 passed by Special Judge (MPDVPK Act) Shivpuri in S.T. No. 10/2020 is hereby affirmed, although on different grounds.

Revision fails and is hereby **dismissed**.

(G. S. AHLUWALIA)  
JUDGE