

(2024) 04 MP CK 0027

Madhya Pradesh High Court (Gwalior Bench)

Case No: Miscellaneous Criminal Case No. 13378 Of 2024

Kapil Tomar

APPELLANT

Vs

State Of Madhya Pradesh

RESPONDENT

Date of Decision: April 3, 2024

Acts Referred:

- Code Of Criminal Procedure, 1973 - Section 156(3), 482

Hon'ble Judges: Milind Ramesh Phadke, J

Bench: Single Bench

Advocate: Rajmani Bansal, Rohit Shrivastava

Final Decision: Dismissed

Judgement

Milind Ramesh Phadke, J

1. The present petition under Section 482 of the Code of Criminal Procedure has been filed by the petitioner seeking following reliefs:

"1. A direction may kindly be given to the respondent that the fair and impartial investigation may be done with regard to crime No.163/2024 at police station Kotwali, District Morena.

2. Any other relief which is just and proper in the facts and circumstances of the case may kindly be ordered."

2. At the outset, learned Public Prosecutor submits that the relief which has been sought by the petitioner is not maintainable in the light of the judgment rendered by the Hon'ble Apex Court in the case of Aleque Padamsee and others Vs. Union of India and others, (2007) 6 SCC 171, Sakiri Vasu Vs. State of U.P., 2008 AIR SCW 309 and Shweta Bhaduria Vs. State of M.P. And others, 2017 (1) MPJR 247 and the proper remedy available to the petitioner is to approach the competent Court of criminal jurisdiction under the provisions of section 156 (3) of Cr.P.C., and therefore, the present petition under Section 482 of Cr.P.C is not maintainable.

3 . Countering the submissions made by the learned Public Prosecutor, learned counsel for the petitioner submitted that though as per the directions of the Hon'ble Apex Court, the remedy available to the petitioner is before competent Court of Criminal Jurisdiction, but this Court by invoking inherent powers under Section 482 of Cr.P.C. can direct the police authorities to conduct the investigation properly on the complaint so made by the petitioner.

4. After hearing the rival contentions, this Court finds that the issue with regard to directing the police officials to register FIR, conduct proper investigation, to make arrest of the accused persons and file challan before the competent court of jurisdiction is no more res integra. In the judgments cited by the learned counsel for the respondent/State, the issue is very well settled that such type of directions can only be given by the Judicial Magistrate of competent criminal jurisdiction under the provisions of section 156(3) of Cr.P.C.

5 . In the light of the aforesaid, this petition being devoid of any substance is hereby dismissed. The petitioner is at liberty to approach the concerned Judicial Magistrate for redressal of his grievance.

6. C.C. as per Rules.