

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

MCRC No. 46833 of 2024

(ISMILE SHAH Vs THE STATE OF MADHYA PRADESH)

Dated : 18-12-2024

*Shri Manish Datt - Senior Advocate with Shri Siddharth Bendel -
Advocate for applicant.*

Shri C.K. Mishra - Govt. Advocate for respondent-State.

Shri Rahul Rawat - Advocate for Objector.

Heard on IA No.31905/2024, which is an application under Section 301(2) of Cr.P.C./Section 339 of BNSS.

Learned senior counsel for the applicant contends that the Objector who is stranger to the litigation has no right to prefer any objection nor can move any application under Section 301 (2) of Cr.P.C./Section 339 of BNSS. It is contended by the counsel that the case in question has been registered on the basis of a complaint lodged by the complainant and the proposed objector is not the complainant, and therefore, the application by the objector is not maintainable. It is further contended by the counsel that the objector is in the habit of blackmailing and lodging false cases which is evident from the reply filed by the applicant and in paragraph 4 of the same, the details of the cases have been given in order to demonstrate that the objector in past has lodged 6 cases against the different persons and the *modus operandi* of the objector is to pressurize the innocent persons and later on, enter into compromise with them. It is

contended by the counsel that the application filed by the objector deserves to be dismissed.

Learned counsel for the applicant has placed reliance on the decision of the *Delhi High Court in the case of Kapil Gupta vs. State. (Bail Application No.2813/2020)*. Learned counsel for the applicant has also submitted that an identical issue was dealt with by this Court in *M.Cr.C. No.11714/2024 (Sonia Keshwani vs. The State of M.P. and Anr.)*.

Learned counsel for the Objector contends that the contention of the senior counsel for the applicant is misconceived. The present applicant is the person who is espousing the cause of complainant. The present applicant is habitual offender and the objector is one of the victim of the present applicant. Against the applicant with P.S. Seoni, a case under Section 294, 323, 376, 376(2)(n) and 506 of IPC and Section 3(1)(da), 3(1)(dha), 3(1)(w)(i), 3(2)(v) and 3(2)(va) of SC/ST (Prevention of Atrocities) Act has been registered vide FIR No.69/2020 and also Sections 376, 376(2)(n), 294, 323, 506 of IPC and and Sections 3(1)(dha), 3(1)(w)(i), 3(2)(v) and 3(2)(va) of SC/ST (Prevention of Atrocities) Act has been registered vide FIR No.243/2023. It is contended by the counsel that the the applicant had affair with 2 other girls who are of different religions, and therefore, on account of applicant's conduct, the communal harmony is at stake and accordingly, it is contended by the counsel that the objector has right to move

application under Section 301(2) of Cr.P.C./Section 339 of BNSS.

Learned counsel for the Objector while placing reliance on Section 2(y) of BNSS submits that the objector is an interested person and is entitled to maintain objection.

Learned counsel for the Objector has placed reliance on the decision of the Apex Court in the case of *Amanullah and Anr. vs. State of Bihar and Ors. (2016 6 SCC 699)*.

Having heard the submissions advanced on behalf of the parties, it is undisputed that the objector is not the complainant on the basis of whose complaint, the FIR against the present applicant has been registered. The Objector, in past had lodged 2 cases against the applicant vide Crime No.243/2023 as well as Crime No.69/2020. The Objector apart from the present applicant has also lodged FIR against many other persons also, details of which have been given in paragraph 4 of the reply to the objection filed by the applicant.

In the case of *Amanullah (supra)*, the Apex Court observed in paragraph 19 as under:-

The term 'locus standi' is a latin term, the general meaning of which is 'place of standing'. The Concise Oxford English Dictionary, 10th Edn., at page 834, defines the term 'locus standi' as the right or capacity to bring an action or to appear in a court. The traditional view of 'locus standi' has been that the person who is aggrieved or affected has the standing before the court, i.e., to say he only has a right to move the court for seeking justice.

Later, this Court, with justice-oriented approach, relaxed the strict rule with regard to 'locus standi', allowing any person from the society not related to the cause of action to approach the court seeking justice for those who could not approach themselves. Now turning our attention towards the criminal trial, which is conducted, largely, by following the procedure laid down in the CrPC. Since, offence is considered to be a wrong committed against the society, the prosecution against the accused person is launched by the State. It is the duty of the State to get the culprit booked for the offence committed by him. The focal point, here, is that if the State fails in this regard and the party having bonafide connection with the cause of action, who is aggrieved by the order of the court cannot be left at the mercy of the State and without any option to approach the appellate court for seeking justice.

As per the law laid down by the Apex Court, the objector has no locus unless he has *bonafide* connection with the cause of action.

The present objector in the considered view of this Court has no bonafide connection with the cause of action. The objector according to paragraph 4 of the reply, is not only prosecuting the present applicant but also prosecuting the other persons who are detailed in paragraph 4 of the reply. The objector is not a victim as the objector in connection with the case in hand has not suffered any loss or injury by the act and omission of the present applicant so far as the case in hand is concerned. Merely the objector in past had lodged the FIR against the present applicant, does not entitle the objector to intervene in every case which is filed against the applicant.

The definition of the victim as provided in Section 2(y) of the BNSS does not cover in its sweep, the loss or injury which have been sustained by a person in past at the behest of the accused who is being prosecuted by some other victim subsequently. If the interpretation as proposed by the objector is taken into consideration for sake of assumption, it would open the flood gates of the litigation and the victims in past all cases will automatically be entitled to raise objection against the accused persons in the subsequent cases which are lodged against the accused persons despite the fact that such victim has no nexus with the subsequent act and has not suffered any losses or injury by the subsequent act of the same accused.

Resultantly, the application filed under Section 301(2) of Cr.P.C./Section 339 of BNSS stands dismissed.

List the matter in the next week.

(MANINDER S. BHATTI)
JUDGE

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