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WP-41391-2024

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE VIVEK AGARWAL

ON THE 30th OF JANUARY, 2025WRIT PETITION No. 41391 of 2024*BHURA KAURAV**Versus**THE STATE OF MADHYA PRADESH AND OTHERS*

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Appearance:

Shri Ratnesh Kumar Yadav - Advocate for the petitioner.

Shri Manas Mani Verma - Government Advocate for the
respondents/State.
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ORDER

This petition is filed by the petitioner being aggrieved of the order dated 30.10.2024 passed by Collector/District Magistrate, Chhindwara in Criminal Case No.0037/Zila Badar/2024 police station, Chandnameta, Chhindwara whereby recording a finding that there are 14 cases pending against the petitioner under various provisions of the IPC and Gambling Act and 3 cases under Section 110 of the Cr.P.C., the Collector passed an order of externment from the district of Chhindwara and neighbouring districts for a period of three months.

It is submitted that these cases starts from 2008 till 2023 and out of long list of seventeen cases, three cases are under Section 110 of the Cr.P.C. and out of the remaining 14 cases, five cases are under Gambling Act. It is submitted that the petitioner has been acquitted in Case Crime No.303/2008



under Section 147, 148, 149, 294, 452, 323, 506 and 427 of the IPC. On the same date two more cases were registered by the police namely, Case Crime No.304/2008 and 305/2008 out of which, in Case Crime No.303/2008 and Case Crime No.304/2008, under the above Sections he was acquitted. Then it is pointed out that in two cases under Gambling Act which are case No.214/2012 and 338/2014, he was fined for Rs.100/-. In Crime No.42/2015 under Section 147, 149, 294, 506, 323, 436 IPC he was acquitted. Thereafter in case at serial number 8, though it is shown as pending by the District Magistrate but he has produced copy of the judgment dated 17.01.2017, in relation to Crime No.324/2015 and vide judgment dated 17.1.2017, learned JMFC, Parasiya in criminal case No.1737/2015, recorded a finding of acquittal in favour of the petitioner from charges under Section 354 of the IPC. Thereafter it is submitted that in respect of cases mentioned at serial number 9 and 10 under the Gambling Act, he visited with fine of Rs.100/- each and case mentioned at serial number 11 he has been fined and discharged but learned District Magistrate has not taken cognizance of these facts and with a view to show a long list of cases against the petitioner, has extracted even those cases in which the petitioner has been acquitted or only fined. Even it is evident that in case of Crime No.324/2015, mention of this case to be pending on the date of passing of the order is factually incorrect inasmuch as the petitioner already stood acquitted vide judgment dated 17.01.2017. Thus, it is submitted that District Magistrate without application of mind passed impugned order of externment and there is no order of conviction.



Shri Manas Mani Verma, learned Government Advocate for the State though submits that one more FIR bearing Case Crime No.88/2014 is registered against the petitioner on 25.03.2024 but it is an admitted fact that this FIR though registered prior of the passing of the order by District Magistrate on 30.10.2024, is not mentioned in the impugned order and, therefore, this fact is of no assistance to the State. It is submitted by Government Advocate that Sarpunch had made a complaint against the petitioner. However, he admits that from the record available with him no statement of any of the witnesses has been recorded to fulfil the requirement of Section 5 (b) MP Rajya Suraksha Adhiniyam, 1990.

Thus, it is evident that Collector/District Magistrate has passed the impugned order in a mechanical manner without appreciating the facts of the case and without recording a finding that witnesses are not willing to come forward to give evidence in public against such person by reason of apprehension on their part as regards the safety of their person or property.

Even otherwise the District Magistrate has not seen which is the requirement of Section 6 before exercising his authority that there should have been some conviction against the petitioner. But admittedly till date there is no conviction against the petitioner. The Commissioner, Jabalpur Division, Jabalpur affirmed the order of externment and dismissed the appeal of the petitioner without even adverting to the provisions contained in Section 5-B of the Madhya Pradesh Rajya Suraksha Adhiniyam, 1990 and, therefore, both the orders being cryptic and having been passed in an arbitrary and illegal manner cannot be given a seal of approval. Accordingly,



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the impugned order dated 30.10.2024 passed by the District Magistrate and order dated 18.12.2024 passed by Commissioner are hereby quashed. Liberty and freedom of the petitioner is restored. State to pay cost of Rs. 25,000/- (Rupees Twenty Five Thousand) in favour of the petitioner through account payee cheque by the State or RTGS in his account.

In the result, the writ petition is allowed and disposed of.

(VIVEK AGARWAL)
JUDGE

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