Hiralal Dhurve vs The State Of Madhya Pradesh on 10 March, 2022

Author: Sanjay Dwivedi

Bench: Sanjay Dwivedi

THE HIGH COURT OF MADHYA PRADESH
Cr.Rev.No.1846/2021
(Hiralal Dhurve Vs. The State of Madhya Pradesh and others)

Jabalpur; Date:10/03/2022

Shri H.S.Verma, counsel for the applicant.

Shri A.D.Bajpai, Government Advocate for the respondent-State.

Shri Yogesh Mohan Tiwari, counsel for the respondent no.2.

The applicant has preferred this criminal revision under Section 397 read with Section 401 of the Code of Criminal Procedure for setting aside the impugned order dated 13/01/2021 passed by IV Additional Sessions Judge & Special Judge(POCSO Act), Mandla in SPL ST No. 42/2020 whereby charge of Section 376 of IPC and Section 5/6 of POCSO Act has been framed against the applicant.

The allegation against the applicant is that he has given advise to the accused persons and prosecutrix Lalita Yadav not to disclose the true facts before the police and also before the Court.

Counsel for the applicant submits that the applicant is an Advocate and nothing illegal has been done by him, because being an Advocate it is his duty to give a better advise to his clients, so as to create defence in their favour. He submits that as such no offence is made out against the present applicant, but trial court has failed to consider this aspect and framed the offence under Section 19 and 21 of the Protection of Children from Sexual Offences Act.

On the contrary, counsel for State submits that from the statement of prosecutrix recorded under Section 161 and 164 of Cr.P.C, it is clear that the present applicant Heeralal Dhurve after knowing the fact that offence has been committed by accused persons advised them not to disclose true facts to the police and also teach the prosecutrix to make false statement before the Court that accused persons have not committed anything wrong with her. On the basis of the statement of the prosecutrix police has made present applicant accused under Section 19 and 21 of POCSO Act. From the statement of prosecutrix, it is also clear that the prosecutrix and the applicant had never approached and contacted the present applicant for any assistance of an Advocate.

Considering the provision of Section 19 and 21 of POCSO Act and statement of prosecutrix-Lalita Yadav, I do not find any infirmity in the order passed by the court below, because Section 19 and 21 of POCSO Act very specifically provides that if any information with regard to offence committed with the minor girl comes into the notice of a person, he should immediately convey the same to the authority, but here in this case even after knowing such thing applicant has ill-advised the prosecutrix and as such offence has rightly been registered against him. The order passed by the Court below does not call for any interference.

Accordingly, this revision is without any substance and the same is hereby dismissed.

(Sanjay Dwivedi) Judge SUSHMA Digitally signed by SUSHMA KUSHWAHA DN: c=IN, o=HIGH COURT OF MADHYA PRADESH, ou=HIGH COURT OF MADHYA PRADESH, postalCode=482001, st=Madhya Pradesh, 2.5.4.20=06cc7ec7869e71b23c61580e1aaad85481f7ea48cd875c18e5a68787947 KUSHWAHA df0c5, pseudonym=3162691BECDE33282E19E0CEBA20524E31482089, serialNumber=0844205F54108DDA40342AD423EF1D3DE29D4F5E3FC94CC59B05D91905B104C7, cn=SUSHMA KUSHWAHA Date: 2022.03.21 17:18:49 +05'30'