

REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTIONCRIMINAL APPEAL NO.614 OF 2019
(@ out of SLP No(s).814/2019)

RAMSWAROOP SONI

Petitioner(s)

VERSUS

THE STATE OF MADHYA PRADESH & ANR.

Respondent(s)

J U D G M E N T

UDAY UMESH LALIT, J.

Leave granted.

In connection with CrI. Case No.2/2009 filed against the appellant for the offences punishable under Section 326, 294 IPC and Section 3(1) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, a Final Report under Section 173(2) of Cr.P.C. was filed on 20.06.2009 submitting that no offence was found to have been committed by the appellant.

The matter was thereafter taken up by the Chief Judicial Magistrate, Vidisha, M.P and following order was passed on 22.06.2013.

"A.D.P.O. is present for the State.

The case is fixed for order on closure.

Final report was present by P.S. Ajak, Vidisha on 20.06.2009 under Section 326, 294 of IPC and Section 3(1) (10) of S.C/S.T. Act was registered against the Ramswarup Soni on the report of complainant Kishor Kumar. Since, sufficient evidence was not found by P.S. during the course of investigation, therefore, closure report was presented. The statement of complainant Kishore Kumar was recorded regarding aforesaid closure report. The complainant has stated in his statement that Police has deliberately not presented charge-sheet, nor has lodged a

report in a proper manner. Complainant has expressed his objection in allowing closure report.

Case diary was perused. Sufficient evidence is available on the record to submit charge-sheet against the accused Ramswaroop Soni, in this situation, while rejecting aforesaid closure report, the SHO of P.S. Ajak is hereby directed to submit charge-sheet against the accused in the Court.

A copy of this order be attached in the case diary and case diary be returned back to the Police Station. Remaining documents be filed in a bundle."

The law is well-settled that in case a final report is filed under Section 173(2) Cr.P.C. stating that no offence is made out against the accused, any of the following courses can be adopted by the Magistrate:

(a) He may accept the report which was filed by the police in which case the proceedings would stand closed.

(b) He may not accept the report and may take cognizance in the matter on the basis of such final report which was presented by the police.

(c) If he is not satisfied by the investigation so undertaken by the police, he may direct further investigation in the matter.

The law is further well-settled that the judicial discretion to be used by the Magistrate at such stage has to fall in either of the three aforesaid categories.

In the present matter, the magistrate has issued directions directing the police to file charge-sheet under Section 326 and 294 IPC and also the provision of Section 3(1) and 10 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. Such a direction is wholly unsustainable.

We, therefore, allow this appeal and set aside the order passed by the Chief Judicial Magistrate and remit the matter back to the file of CJM, Vidisha, M.P. for fresh consideration and to pass appropriate order in accordance with law.

The appeal stands allowed in aforesaid terms.

Pending applications, if any, shall also stand disposed of.

.....J.
(UDAY UMESH LALIT)

.....J.
(INDU MALHOTRA)

New Delhi,
April 8, 2019.

ITEM NO.28

COURT NO.8

SECTION II-A

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (CrI.) No(s). 814/2019

(Arising out of impugned final judgment and order dated 10-12-2018 in MCRC No. 5746/2013 passed by the High Court Of M.p At Gwalior)

RAMSWARUP SONI

Petitioner(s)

VERSUS

THE STATE OF MADHYA PRADESH & ANR.

Respondent(s)

Date : 08-04-2019 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE UDAY UMESH LALIT
HON'BLE MS. JUSTICE INDU MALHOTRA

For Petitioner(s) Mr. Vikrant Singh, Bais, Adv.
Mr. Yogesh Tiwari, Adv.
Mr. Sanjay K. Agrawal, AOR

For Respondent(s) Mr. Amit Kumar, Adv.
Mr. Sachin Pahwa, Adv.
Mr. Vijay Pal Singh, Adv.

Mr. Harsh Parashar, Std.Counsel for State
Mr. Aman Pandey, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeal is allowed in terms of the signed reportable judgment.

Pending applications, if any, shall also stand disposed of.

(INDU MARWAH)
COURT MASTER

(SUMAN JAIN)
BRANCH OFFICER

(signed reportable judgment is placed on the file)