

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE B. P. SHARMA

ON THE 1st OF APRIL, 2026

WRIT PETITION No. 4643 of 2015

SUNIL KUMAR SHRIVASTAVA

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

.....
Appearance:

Shri Ajay Shankar Raizada - Advocate for petitioner.

Shri Yaduvendra Dwivedi - PL for respondent/State.
.....

WITH

WRIT PETITION No. 4639 of 2015

HEMANT RAKESH

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

.....
Appearance:

Shri Ajay Shankar Raizada - Advocate for petitioner.

Shri Yaduvendra Dwivedi- PL for respondent/State.
.....

WRIT PETITION No. 4640 of 2015

NEERAJ KUKREJA

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

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Appearance:

Shri Ajay Shankar Raizada - Advocate for petitioner.

Shri Yaduvendra Dwivedi - PL for respondent/State.
.....

ORDER

As the issue involved in these petitions is common and identical, they are heard and decided together.

2. This petition under Article 226 of the Constitution of India has been preferred by the petitioner calling in question the legality and propriety of the communication dated 23.03.2015 issued by the Government Railway Police, Katni whereby the petitioners were directed to appear before the said police station in connection with Crime No. 44/2012 registered for offences under Sections 294, 323, 506 and 34 of the Indian Penal Code along with the relevant provisions of the Railways Act, and further seeking quashment of the proceedings arising therefrom.

3. As per the averments of the petitions, the petitioners are the Chief Vigilance Inspector, Vigilance Inspectors, and Assistant Vigilance Officer of the Vigilance Branch of the West Central Railway, Jabalpur. While conducting an inspection, they also inspected respondent No. 8/Mr. Pyar Singh Meena. As he belongs to the Scheduled Caste/Scheduled Tribe category, he allegedly took shelter under the said status and filed a complaint dated 29.12.2011 against the petitioners alleging that on 29.12.2011, while he was on duty in Coach Nos. C-1 and D-1 of Train No. 11452 Rewa–Jabalpur Intercity at Katni Railway Station, a passenger who introduced himself as Shukla requested a seat. When he refused a seat due to non-availability, the said person allegedly started abusing him, claiming to be a Vigilance Officer. Thereafter, he allegedly occupied the complainant's seat and began making phone calls. When the train reached Jabalpur Railway Station, the complainant got down and found 4–5 RPF personnel along with Sub-Inspector Shishir Kumar and Vigilance Inspectors Kukreja and Srivastava present there. It was further alleged that the complainant was

taken to the RPF station by holding his hand, abused, subjected to caste-based slurs, stripped, searched, and mentally and physically harassed. Thereafter, the Police Station GRP, Jabalpur summoned all the vigilance officers named above and the RPF staffs, who were present during the vigilance check on 29.12.2011. Their statements were recorded and the matter was investigated on the basis of the complaint dated 29.12.2011. The Station House Officer, GRP Jabalpur, after conducting a thorough investigation, found that no criminal case was made out against the petitioners and submitted his report dated 11.01.2012. Thereafter, respondent No. 8/complainant also filed a complaint against the petitioners through the All India Scheduled Castes and Scheduled Tribes Railway Employees Association. Pursuant thereto, and allegedly at the behest of respondent No. 4- Shri Gaji Ram Meena, who was then the Inspector General of Police, Range Rewa, and who also belongs to the same caste and category as respondent No. 8/complainant, Crime No. 44/12 was registered at GRP Katni, District Katni. This was done despite the fact that the Railway Police authorities at Jabalpur had already conducted an investigation and found that no illegality or offence had been committed by the petitioners. Consequently, the petitioners filed Writ Petitions No. 6159 and 6160 of 2012, which were disposed of vide common order dated 06.08.2012 directing the Director General of Police, Bhopal to examine the matter, deal with it, and take necessary steps in accordance with law without being influenced by any extraneous pressures or considerations.

4. In compliance with the said order, an enquiry was conducted by

the Superintendent of Police (Rail). Vide letter dated 24.04.2014 addressed to Special Director General (Rail), Bhopal, it was clearly mentioned that only Vigilance Officer Subhash Yadav was found guilty. No other vigilance officers were found to have abused or assaulted Mr. Pyar Singh Meena, who had misused his reputation and position. No evidence was found to warrant prosecution against the other vigilance officers or the RPF personnels. However, abruptly, vide letter dated 23.03.2015 issued by the SHO, GRP Katni, District Katni, the petitioners were directed to appear before him for taking further steps in connection with Crime No. 44/12 registered at the said police station, purportedly in compliance with the orders passed in the writ petitions and directions of superior officers. Hence, the present petitions have been filed by the petitioners.

5. Learned counsel for the petitioners submits that the communication dated 23.03.2015 is nothing but, an attempt to override the authority of this Court, which had clearly directed that an impartial enquiry be conducted without being influenced by any external pressure. Pursuant to the said direction, the Superintendent of Police (Rail) conducted an enquiry and found no material against the petitioners. Except for Shri Subhash Yadav, no one else was found guilty. Learned counsel further submits that it is incomprehensible that when this Court directed respondent No. 2, the Director General of Police to conduct an enquiry into the matter, in compliance thereof, an enquiry was conducted in which the petitioners were exonerated from the allegations levelled against them, then how a lower-rank officer could arrive at a conclusion that the petitioners are guilty. It is also

submitted that investigating agency-GRP, Katni without jurisdiction acted at the behest of complainant/Mr. Pryar Singh Meena and Mr. Gaji Ram Meena, I.G. with ulterior motive to harass and humiliate the petitioners by abusing the process of law. The said action amounts to a clear abuse of the process of law and a colourable exercise of power by the GRP authorities. Hence, it is prayed that the impugned letter dated 23.03.2015 be quashed.

6. *Per contra*, learned counsel appearing for respondents No. 1 to 5 filed reply on their behalf denying the averments made in the petitions and submitted that pursuant to the order passed in W.P. Nos. 6159 and 6160 of 2012, an enquiry was conducted by the S.P. (Rail), Jabalpur, who submitted a report dated 24.04.2014 to the Director General of Police (Rail). Upon perusal of the said report, the Director General of Police (Rail) found that the report was based on previously recorded statements of various persons. Accordingly, vide letter dated 21.05.2014, directions were issued to record the statements of witnesses afresh and to submit a fresh enquiry report.

7. It is further submitted that in compliance with the said directions, S.P. (Rail), Jabalpur conducted a fresh enquiry, recorded statements of witnesses, and submitted a detailed report dated 21.11.2014. After examining the said report, the Director General of Police (Rail), by letter dated 25.11.2014, directed the S.P. (Rail), Jabalpur to specify the names of the persons against whom *prima facie* case was found established. Consequently, the S.P. (Rail), Jabalpur submitted a report dated 29.11.2014 naming nine persons, including the petitioners, against whom *prima facie* case was made out. Thereafter, vide order dated 15.12.2014, the Director General of Police

(Rail) directed the S.P. (Rail), Jabalpur to complete the formalities for filing the charge-sheet before the competent Court in accordance with law.

8. It is also submitted that Police Headquarters (Crime Investigation Department), Bhopal, vide letter dated 15.01.2015 reiterated that coercive steps against the persons involved in the crime would be taken only after a final decision regarding their involvement by the Director General of Police (Rail). Pursuant to the said directions, the S.P. (Rail), Jabalpur, vide by letter dated 11.02.2015 directed the Dy. S.P. (Rail), Katni to take necessary action, and accordingly the OIC, GRP Police Station, Katni was directed on 12.02.2015 to complete the formalities for filing the charge sheet against the accused persons.

9. It is further submitted that the earlier report of Superintendent of Police (Rail) dated 24.04.2014 stood superseded by the order dated 21.05.2014 issued by the Director General of Police (Rail), as the same was not prepared in accordance with the prescribed procedure. The subsequent report dated 21.11.2014 was based on statements of witnesses recorded during the fresh enquiry, in which the petitioners were found involved in the offence. Accordingly, summons were issued to the petitioners by the OIC, GRP Police Station, Katni vide communication dated 23.03.2015. However, instead of cooperating with the investigation, the petitioners filed the present petitions by suppressing the material facts and placing reliance on the earlier report dated 24.04.2014, which had already been superseded. It is therefore contended that the summons issued by the OIC, GRP Police Station, Katni were based on the subsequent enquiry report and the contention of the

petitioners that the said authority was not competent to act contrary to the earlier report is misconceived. On the aforesaid grounds, the learned counsel for respondents have prayed for dismissal of petitions.

10. Having heard learned counsel for the parties and perused the record, the principal question which arises for consideration in the present case is whether the acts alleged against the petitioners can be said to have been committed while acting or purporting to act in discharge of official duty so as to attract the protection provided under Section 197 CrPC, and the FIR has been lodged with *mala fide* intention.

11. The incident in question is stated to have arisen during the course of a vigilance inspection carried out by the petitioners in Train No.11452 on 29.12.2011, wherein the functioning of respondent No.8, a Ticket Examiner, was subjected to scrutiny. The record indicates that the altercation, which subsequently gave rise to the complaint, occurred in the backdrop of such official inspection.

12. A significant aspect which merits consideration is the manner in which the criminal law was set into motion. The alleged incident having taken place at Katni Railway Station, the jurisdiction to entertain and act upon the complaint squarely vested with the railway police authorities having territorial jurisdiction over Katni or Jabalpur. However, the complaint was entertained by the then Inspector General of Police, Rewa, who undisputedly did not exercise territorial jurisdiction over the place of occurrence. Notwithstanding this limitation, the said authority proceeded to take cognizance of the complaint on the very same day and directed

registration of the FIR. This Court is unable to accept such action as a routine administrative forwarding of a complaint. On the contrary, the sequence of events reveals a clear departure from settled jurisdictional discipline and reflects an unwarranted assumption of authority.

13. It has specifically been brought to the notice of this Court that respondent No.4, the then Inspector General of Police, Rewa, and respondent No.8, the complainant, belong to the same caste. The unusual promptitude with which the complaint was acted upon, despite the apparent lack of jurisdiction, coupled with this undisputed social proximity, gives rise to a reasonable apprehension that the process was influenced by extraneous considerations. The material on record supports the contention of the petitioners that the complainant, taking shelter of his caste status, for initiating criminal proceedings, went to Rewa and submitted a written report in spite of that, he was fully aware that Rewa was beyond territorial jurisdiction and FIR should be lodged at Katni GRP.

14. This Court also finds considerable substance in the fact that the railway police authorities at Jabalpur, upon initial examination, did not find any offence made out against the petitioners. However, a case came to be registered subsequently at Katni, not on the basis of any fresh incriminating material, but in consequence of the intervention initiated at the level of the Inspector General of Police, Rewa. Such a course of action raises serious doubts.

15. Further, pursuant to the directions issued by this Court in W.P. No.6159/2012, a detailed inquiry was conducted by Superintendent of Police

(Rail), Jabalpur, culminating in a report dated 24.04.2014. The said inquiry report categorically concludes that the present petitioners were not involved in the alleged incident and that culpability, if any, was attributable only to one vigilance officer, namely Shubash Yadav. This finding, arrived at after a comprehensive fact-finding exercise by a competent authority, significantly undermines the very basis of the allegations levelled against the petitioners and renders the continuation of proceedings by issuing a notice against them, is wholly unjustified.

16. From the material placed before this Court, it is not in dispute that the petitioners were functioning as Vigilance Inspectors/Assistant Vigilance Officer in the Railway administration and that the incident which gave rise to this complaint occurred during the course of vigilance inspection conducted in the train while examining the conduct of the Ticket Examiner respondent No.8. Now, the point for consideration of this court is that, the shelter of 197 CrPC is applicable to the petitioner.

17. In **Amal Kumar Jha vs. State of Chhattisgarh and another**, (2016) 6 SCC 734, the Hon'ble Supreme Court has authoritatively held that even if the act is in excess of duty, so long as there exists a reasonable connection with official duty, the protection under Section 197 Cr.P.C cannot be denied. Similarly, in **Jagdish Singh Meena and another vs. Sagar Mogia and another**, 2020 SCC OnLine MP 27, wherein this Court reiterated that acts of police officials performed during duty, even involving use of force, would attract the protection under Section 197 Cr.P.C if reasonably connected with official duty.

18. Additionally, in **K. Kalimuthu vs. State**, (2005) 4 SCC 512, **Manorama Tiwari vs. Surendra Nath Rai**, (2016) 1 SCC 594, and **State of M.P. vs. Sheetla Sahai**, (2009) 8 SCC 617, wherein the Supreme Court has consistently held that the test is whether the act has reasonable nexus with official duty and that even acts done in purported discharge of duty fall within the ambit of Section 197 Cr.P.C. In **Matajog Dobey vs. H.C. Bhari**, (1955) 2 SCC 388 and **State of Orissa vs. Ganesh Chandra Jew** (2004) 8 SCC 40 to contend that the expression “*official duty*” must receive a broad interpretation and that the act complained of need not be strictly within the duty, but must be reasonably connected with it. Further, in **State through CBI vs. B.L. Verma**, (1997) 10 SCC 772, wherein it has been held that sanction under Section 197 Cr.P.C. is mandatory and goes to the root of jurisdiction, and in absence thereof, cognizance is vitiated.

19. In **Anjani Kumar vs. State of Bihar** 2008 CrLJ 2558, the Hon’ble Supreme Court has emphasized that the applicability of Section 197 Cr.P.C must be determined with reference to the nature of the act and its nexus with official duty, and that even at a subsequent stage, if such nexus is established, the proceedings cannot continue without sanction. The principles laid down in *Matajog Dobey*, and *Sheetla Sahai (supra)* consistently reiterate that there must be a reasonable connection between the act and official duty and that provision cannot be construed narrowly, so as to defeat its object. It has repeatedly been held that even acts done in excess of duty, would fall within the protective ambit, if they are reasonably connected with official functions.

20. In *Amal Kumar Jha and Ganesh Chandra Jew (supra)*, it has further

been clarified that the test is whether omission to perform the act would have exposed the public servant to a charge of dereliction of duty. If the answer is in the affirmative, the act must be held to be connected with official duty. Similarly, in *B.L. Verma (supra)* it has categorically been held that the requirement of sanction under Section 197 Cr.P.C is mandatory and goes to the root of jurisdiction, and cognizance taken without such sanction is unsustainable in law.

21. In the considered opinion of this Court the legal position regarding the applicability of Section 197 of the CrPC is well settled. The expression “*official duty*” appearing in the said provision has consistently been interpreted in a broad and pragmatic manner by the Supreme Court. The settled principle emerging from the decisions of the Supreme Court is that if the act complained of, is reasonably connected with the discharge of official duty, the protection of Section 197 Cr.P.C would be attracted. The act complained of need not be strictly within the limits of official duty and even acts done in excess of duty or in purported discharge of official duty, would fall within the protective ambit of the provision, so long as there exists a reasonable nexus between the act and the official duty performed.

22. In this regard it has repeatedly been emphasized by the Supreme Court that the true test is whether omission to perform the act complained of, would have exposed the public servant to a charge of dereliction of duty. If the answer to that question is in affirmative, the act must necessarily be regarded as having been performed in the course of official duty. The Supreme Court has also consistently held that sanction under Section 197

Cr.P.C is not a mere procedural requirement but, a condition precedent which goes to the root of jurisdiction and that in absence of such sanction, the prosecution of a public servant for acts connected with official duty cannot be sustained.

23. Applying the aforesaid principles to the facts of the present case, this Court is of the view that the alleged acts attributed to the petitioners arose during the course of vigilance inspection undertaken by them, in their official capacity as a Vigilance Inspectors/Additional Vigilance Inspector of the Railways. Even if, the allegations contained in the complaint are taken at their face value, the same cannot be separated from the official context, in which the incident is alleged to have occurred. The acts complained of, therefore bear a clear and reasonable nexus with the discharge of official duties by the petitioners.

24. In such circumstances the protection available under Section 197 of the Cr.P.C becomes applicable and sanction from the competent authority becomes a mandatory prerequisite before initiating criminal prosecution against the petitioners.

25. In view of the aforesaid discussion, this Court is satisfied that the proceedings initiated against the petitioners pursuant to Crime No.44/2012 registered at Government Railway Police Station Katni and the communication dated 23.03.2015 directing the petitioners to appear before the police station cannot be sustained in law.

26. Consequently, the writ petition deserves to be allowed and are accordingly **allowed**. The proceedings arising out of Crime No.44/2012

registered at Government Railway Police Station Katni against the petitioners only, including the communication dated 23.03.2015 directing the petitioners to appear before the police station, are hereby quashed.

(B. P. SHARMA)
JUDGE

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