IN THE HIGH COURT OF MADHYA PRADESH AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE MILIND RAMESH PHADKE

ON THE 5th OF FEBRUARY, 2024

MISC. CRIMINAL CASE No. 4052 of 2010

BETWEEN:-

PREETAM SINGH S/O S/O HEM SINGH , AGED ABOUT 58 YEARS , OCCUPATION: R/O VILL.UDAYPUR,THANA BIJOLI ,DISTT. GWALIOR (MADHYA PRADESH)

.....APPLICANT

(BY SHRI ARJUN SHARMA - ADVOCATE)

AND

STATE OF M.P. THR. PS MORAR, GWALIOR(MADHYA PRADESH)

.....RESPONDENTS

(BY SHRI PAWAN SINGH RAGHUVANSHI - GOVT. ADVOCATE)

This application coming on for direction this day, the court passed the following:

ORDER

This petition under Section 482 of the Code of Criminal Procedure has been filed by the petitioner seeking direction to the police authorities to file chalan in relation to Crime No. 398 of 2010 as well as to arrest the accused persons.

2. At the outset, learned Public Prosecutor submits that the relief which has been sought by the petitioner is not maintainable in the light of the judgment rendered by the Hon'ble Apex Court in the case of **Aleque Padamsee and others Vs. Union of India and others, (2007) 6 SCC 171, Sakiri Vasu Vs.**

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State of U.P., 2008 AIR SCW 309 and Shweta Bhadauria Vs. State of M.P. And others, 2017 (1) MPJR 247 and the proper remedy available to the petitioner is to approach the competent Court of criminal jurisdiction under the provisions of section 156 (3) of Cr.P.C., and therefore, the present petition under Section 482 of Cr.P.C is not maintainable.

3. Countering the submissions made by the learned Public Prosecutor, learned counsel for the petitioner submitted that though as per the directions of the Hon'ble Apex Court the remedy available to the petitioner is before competent Court of Criminal Jurisdiction, but this Court by invoking inherent powers under Section 482 of Cr.P.C. can direct the police authorities to conduct the investigation properly and to file chalan in relation to the FIR so made by the petitioner.

4. After hearing the rival contentions, this Court finds that the issue with regard to directing the police officials to make arrest of the accused persons and file challan before the competent court of jurisdiction is no more *res integra*. In the judgments cited by the learned counsel for the respondent/State the issue is very well settled that such type of directions can only be given by the Judicial Magistrate of competent criminal jurisdiction under the provisions of section 156 (3) of Cr.P.C.

5 . In the light of the aforesaid, this petition being devoid of any substance is hereby **dismissed**. The petitioner is at a liberty to approach the concerned Judicial Magistrate for redressal of his grievance.

(MILIND RAMESH PHADKE)
JUDGE

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