IN THE HIGH COURT OF MADHYA PRADESH AT INDORE

BEFORE

HON'BLE SHRI JUSTICE PRANAY VERMA

ON THE 2nd OF FEBRUARY, 2024

MISC. CRIMINAL CASE No. 10092 of 2015

BETWEEN:-

SMT. ANARKALI W/O UTTAM BACHHADA, AGED ABOUT 62 YEARS, OCCUPATION: LABOUR DODIYA MEENA, TEH. MALHARGARH, DISTT. MANDSAUR (MADHYA PRADESH)

.....PETITIONER

(BY SHRI VISHAL PATIDAR- ADVOCATE)

AND

THE STATE OF MADHYA PRADESH STATION HOUSE OFFICER THRU. P.S. MANASA, DISTT. NEEMUCH (MADHYA PRADESH)

.....RESPONDENT

(BY SHRI ANENDRA SINGH PARIHAR - PANEL LAWYER)

This petition coming on for order this day, the court passed the following:

ORDER

By this petition under Section 482 of the Code of Criminal Procedure, the petitioner has challenged the proceedings initiated by the Court below for recovery of the amount which was directed to be deposited by her husband and has also prayed for refund of the amount which has already been deposited by her.

2. The record indicates that by judgment dated 15.05.2009 passed in Cr.A. No.48 of 2001 which was preferred against the judgment dated 29.12.2000 by the Additional Sessions Judge, Manasa, District Neemuch in

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S.T. No.220/1991, the appellants including appellant No.7 therein Uttam was directed to deposit a further sum of Rs.5,000/- within a period of two months' and further directions were issued for payment of the amount to be deposited by appellants to the complainants. In compliance of the said judgment, petitioner who is widow of Uttam has deposited a sum of Rs.5,000/- before the revenue authority which has instituted proceedings for recovery of the said amount.

3. From the document brought on record as Annexure P/2 it is evident that Uttam who was appellant No.7 in the appeal had expired on 04.11.2008 i.e. much prior to the date of passing of the judgment in Cr.A. No.48 of 2001 . The said fact was not brought to the knowledge of this Court at the time of passing of the judgment.

4. Be that as it may, the fact remains that he had already expired the consequence of which was that the proceedings against him stood abated. Thus, the judgment dated 15.05.2009 passed in Cr.A. No.48 of 2001 was in ignorance of the fact of death of Uttam and would be a nullity in so far as he is concerned. Consequently, the direction for him to deposit a sum of Rs.5,000/- before the Court also is not enforceable either against him or his legal representative. The petitioner who is widow of Uttam has already deposited a sum of Rs.5000/- in compliance of the judgment. Since the direction therein was not enforceable against Uttam there was no necessity for the petitioner to have deposited the said amount. The recovery of a sum of Rs.50/- per day which is being made from the petitioner in compliance of the aforesaid judgment is also not enforceable against her.

5. Thus, in the available facts of the case, the petition deserves to be and is accordingly allowed. It is held that the petitioner is not liable for payment of

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any amount as per the direction of this Court in Cr.A. No.48 of 2001 decided on 15.05.2009. The amount already deposited by the petitioner be refunded to her.

(PRANAY VERMA)
JUDGE

jyoti

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