

SUPREME COURT OF INDIA

State of Maharashtra

Vs.

Mohd. Rashid & Ors.

CrI.A.No.877 of 2005

(Y.K. Sabharwal and G.P. Mathur, JJ.)

18.07.2005

ORDER

Y.K. Sabharwal ,J.

1. Heard the learned counsel for the parties.

2. Delay condoned.

3. Leave granted.

4. The only grievance of the appellant State in this appeal, at this stage, is about the direction contained in the impugned order dated 21-11-2002, of the High Court to the effect that if any crime is registered against the applicant (the first respondent herein) in future with the Nallasopara Police Station within a period of three years, he shall not be arrested in connection Arising out of SLP (CrI.) No. 4457 of 2003 there with, except after service of four working days' advance notice in writing to him.

5. The aforesaid order was passed in a contempt petition that had been filed by the first respondent against the State of Maharashtra and the Assistant Police Inspector concerned attached with the aforesaid police station. The first respondent, by an earlier order passed on 26-8-2002, was granted anticipatory bail. The grievance of the first respondent was that despite grant of interim order in his favour restraining the arrest, the police arrested him in violation of the order. While disposing of the contempt petition and directing that the contempt petition be dropped, it has been noticed in the impugned order that since on the face of it the first respondent was arrested in respect of a different offence registered against him as per the affidavit of the police officer, it would be difficult to hold the officer guilty of contempt unless it is shown that the crime registered was a false one. Under these circumstances, the contempt action was dropped and inquiry was directed to be conducted by (2005) 7 SCC 56

the Additional Chief Secretary, Home Department, Government of Maharashtra in respect of complaint filed by the first respondent dated 25-3-2002.

6. In this appeal, we are not called upon to decide the correctness of the direction for holding an inquiry. That direction has not been challenged by the State. The limited challenge is to the blanket order of not arresting the first respondent for a period of three years in the manner above noted.

7. Having heard the learned counsel for the parties and also having perused the record, including the order dated 26-8-2002, it is clear that such a blanket protection of not arresting the first respondent in any crime, except after written notice to him, could not be passed. Accordingly, the direction given in the penultimate paragraph of the impugned order giving blanket protection to the first respondent is set aside and, to that extent, the impugned order stands modified.

8. We may, however, clarify that if out of vindictiveness, any false case is registered against the first respondent, it goes without saying that he is not without remedy to challenge it in an appropriate forum.

9. The criminal appeal stands allowed to the above extent.