

passed the following:

ORDER

1. The present petition under Section 482 of the Cr.P.C. at the instance of the petitioner/complainant taking exception to the order dated 06.12.2023 passed by the Fifth Additional Sessions Judge, District Shivpuri, whereby criminal revision preferred by the petitioner against the order dated 19.04.2023 passed by the Judicial Magistrate First Class, Shivpuri has been rejected and order J.M.F.C. stood affirmed.

2. Precisely stated facts of the case are that petitioner preferred private complaint purportedly under Sections 190-200 of the Cr.P.C. against the respondents No.3 and 4 stating that respondent No.3 Kapil Sharma in his show namely The Kapil Sharma Show has tried to undermine the Majesty of the Courts and its proceedings while taking liquor bottle in his hands and exhibiting consumption over the set created of a Court and hurled verbal and abusive comments which according to petitioner was an attempt to tarnish the image of Courts. Therefore, private complaint was filed.

3. Alongwith the private complaint, application under Section 156(3) of the Cr.P.C. was also preferred for investigation to be undertaken by the police. The said application was rejected by the Judicial Magistrate First Class, Shivpuri and concluded that the petitioner as complainant can file his own evidence for bringing clarity in the allegation and police has no role to play in the peculiar set of allegation.

4. Against the said order, petitioner preferred criminal revision but met the same fate. Revisional Court dismissed the revision on the ground

that petitioner has to lead his own evidence in support of allegation and it is a matter based upon the programme aired over television, therefore, petitioner could have gathered evidence from there only. Against both the orders, petitioner is before this Court.

5. It is the submission of learned counsel for the petitioner that both the courts below erred in passing the impugned order and caused illegality. This is a fit case where police investigation ought to have been carried out. Therefore, he prayed for setting aside the impugned orders.

6. Learned Public Prosecutor for the State opposed the prayer and submitted that petitioner has already filed private complaint and if petitioner is aggrieved then he can lead his evidence on his own and Court has given liberty to examine himself and lead evidence so that as per Section 200 of the Cr.P.C. examination of complainant can be carried out and thereafter, Magistrate can ensure appropriate proceedings as per law. Therefore, he prayed for dismissal of this petition.

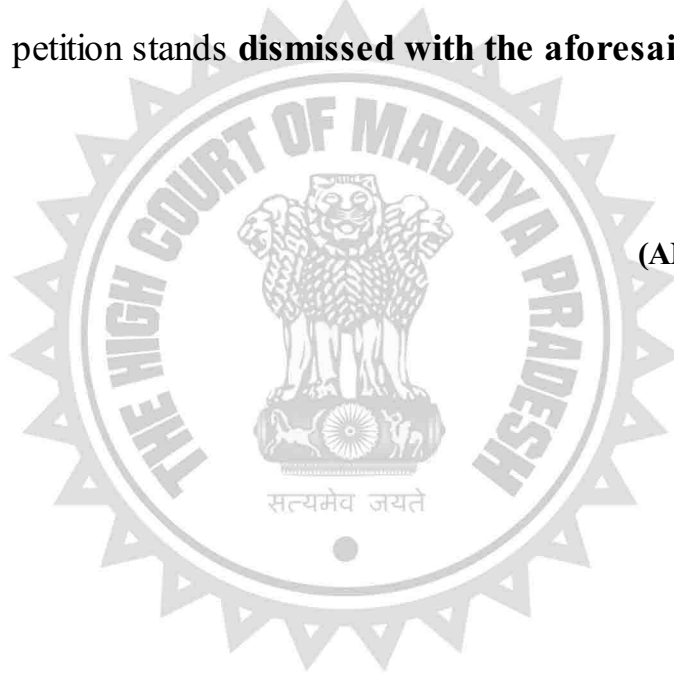
7. Heard the learned counsel for the parties and perused the documents appended thereto.

8. This is a case where petitioner on the basis of television show is trying to initiate proceedings against the alleged erring person. Matter emanates from television programme and petitioner has already secured recording of programme alongwith necessary electronic equipments like recorder and C.D. etc. Now what Station House Officer, Police Station or any Investigating Officer would collect as evidence is the question. It appears that petitioner is aggrieved by the way court has been depicted in the television show. Therefore, prime source is recording of programme.

Police has little role to play and if learned Judicial Magistrate First Class Shivpuri has declined to entertain the application under Section 156(3) of the Cr.P.C. then it has not caused any illegality, perversity or impropriety. Police has nothing to do with this type of allegation. Petitioner as complainant has to stand on his own legs and if he is aggrieved then he has to collect necessary evidence and has to depose accordingly to justify his stand for filing private complaint. Shoulder of police cannot be used to gain mileage if the aim is of that nature.

9. In cumulative analysis, no case is made out for interference, therefore, petition stands **dismissed with the aforesaid observations.**

Rashid



(ANAND PATHAK)
JUDGE