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IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE SUJOY PAUL

&

HON'BLE SHRI JUSTICE PRAKASH CHANDRA GUPTA

ON THE 27th OF JULY, 2022

CRIMINAL REVISION No. 2067 of 2020

Between:-

GOPI LAL BHARTI

.....APPLICANT

***(BY SHRI SANJAY AGRAWAL, SENIOR ADVOCATE WITH SHRI
KUBER BODDH, ADVOCATE)***

AND

1. **MR. JYOTIRADITYA M. SCINDIA R/O 1, JAI
VILAS, LASHKAR TEH. GWALIOR DIST.
GWALIOR-474009 (MADHYA PRADESH)**
2. **MR. RAMESH SAKHIYA, T.I JHANSI ROAD
POLICE STATION GWALIOR (MADHYA
PRADESH)**
3. **MR. PANKAJ TYAGI, T.I INDERGANJ POLICE
STATION GWALIOR, (MADHYA PRADESH)**
4. **STATE OF M.P. THR. P.S JHANSI ROAD
GWALIOR (MADHYA PRADESH)**

.....RESPONDENTS

***(BY SHRI ANKUR MODI AND YASH SONI, GOVERNMENT
ADVOCATES FOR THE RESPONDENT No.4/STATE)***

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*This revision coming on for hearing this day, JUSTICE SUJOY
PAUL passed the following:*

ORDER

With the consent finally heard.

Learned counsel for the parties fairly admitted that remaining respondents

were not put to notice by the Court below and therefore, there is no need to hear them at present.

Shri Sanjay Agrawal, learned Senior counsel for the applicant submits that applicant filed an application under Section 156(3) before the Court below for taking cognizance of a cognizable offence and direct the police authorities to register an FIR. The Court below by impugned order dated 08.07.2020 dismissed the said application by holding that:-

1. *As per the judgement of Supreme Court in **Smt. Priyanaka Shrivastava and another Vs. State of U.P. & others** (2015) 6 SCC 287, the applicant has not availed the remedy of preferring application before Superintendent of Police as envisaged in Section 154(3) of the Cr.P.C.*
2. *The applicant has not filed any document to show that he preferred an application for registration of FIR before any police station.*

Learned Senior counsel for the applicant submits that on the basis of said two reasons, the application under Section 156(3) was dismissed. However, surprisingly the Court below while dismissing the application for non-compliance of Section 154(3) etc. gave a finding which deals with the merits of the case as well. The Court below opined that as per the entire facts and circumstances mentioned in the application and for other reasons, the application is dismissed.

The pointed contention of learned Senior counsel for the applicant is that if the requirement of Section 154(3) of Cr.P.C is to be fulfilled before filing an application under Section 156(3) of Cr.P.C., the applicant is ready and willing

to undertake the said exercise. However, a time limit may be fixed for taking a decision on the said application filed by the applicant by the Superintendent of Police. Thereafter, the applicant may be given liberty to approach the Court by filing appropriate proceedings under Section 156(3) of Cr.P.C. or Section 200 of Cr.P.C. or any other proceeding in accordance with law. It may be made clear that any finding given by the Court below in the impugned order dated 08.07.2020 may not come in the way of applicant in preferring the aforesaid application to SP or in the fresh proceeding filed as per the provisions of the Criminal Law.

Shri Ankur Modi and Shri Yash Soni, learned Government Advocates for the respondent/State supported the impugned order.

We have heard the parties at length and perused the record.

As noticed above, learned Senior counsel for the applicant has shown his keenness to avail the remedy under Section 154(3) of Cr.P.C. and then approach the Court of Competent jurisdiction in appropriate proceedings. Thus, in our view liberty to this extent must be granted to the applicant. So far finding of Court below wherein the Court below opined that it is not proper to issue directions to the Police Station, in the facts and circumstances of the case are concerned, we find substance in the argument of learned Senior counsel that if applicant's application under Section 156(3) was not entertained for not fulfilling certain technical formalities and for not availing the remedy under Section 154(3) of Cr.P.C., there was no occasion for the Court below to give any finding or observation touching the merits of the case. Resultantly, the applicant is given liberty to avail the remedy under Section 154(3) of Cr.P.C. and if he still feels aggrieved by action/inaction of the authorities, may set the criminal law into motion by filing appropriate proceedings. In that event, any

finding given by Court below in impugned order dated 08.07.2020 touching the merits of the case will not come in the way of the applicant. It is further made clear that the said finding will not come in the way of applicant even for the purpose of application under Section 154(3) of the Cr.P.C.

With the aforesaid and without expressing any opinion on the merits of the case, the Criminal Revision stands **disposed off**.

(SUJOY PAUL)
JUDGE

vai

(PRAKASH CHANDRA GUPTA)
JUDGE

