IN THE HIGH COURT OF MADHYA PRADESH AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE DEEPAK KUMAR AGARWAL

ON THE 1st OF JUNE, 2023

MISC. CRIMINAL CASE No. 23156 of 2023

BETWEEN:-

DEVA ALIAS RAHUL GUPTA S/O SHRI VISHWNATH GUPTA, AGED ABOUT 49 YEARS, OCCUPATION: PRIVATE JOB R/O 743 KAMAL SINGH COLONY ESHAI TOLA JHANSI (UTTAR PRADESH)

.....PETITIONER

(BY SHRI RAJMANI BANSAL- ADVOCATE)

AND

1. **STATE OF MADHYA PRADESH THROUGH POLICE STATION- BAHODAPUR, DISTRICT- GWALIOR (MADHYA PRADESH)**

2. **SMT. KUSUM VERMA W/O SHRI NATHURAM, OCCUPATION: HOUSE WIFE R/O RAMPURI MOHALLA, SHABADPRATAP ASHARAM, BAHODAPUR DISTRICT- GWALIOR (MADHYA PRADESH)**

.....RESPONDENTS

(SHRI PRAMOD PACHAURI- PUBLIC PROSECUTOR FOR THE STATE)

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

ORDER

This petition has been filed under Section 482 of Cr.P.C. by the petitioner seeking quashment of FIR bearing Crime No.530/2019 registered at Police Station- Bahodapur, District- Gwalior (M.P.) for the offence punishable under Section 366 of IPC read with Section 3(2)(v) of the SC/ST Act, Section 365 of IPC read with Section 3(2)(va) of the SC/ST Act, Section 364 of IPC

read with Section 3(2)(v) of the SC/ST Act, Section 302 of IPC read with Section 3(2)(v) of the SC/ST Act and Section 201 of IPC and other consequential proceedings pending in S.S.T. No.320/2019 before Special Session Judge (SC/ST Act), District- Gwalior (M.P.).

In brief, the prosecution case is that on 26/05/2019, a missing report was lodged by the complainant who is the sister of the deceased that her sister namely- Deepa Verma, who was residing at Bahodapur, District- Gwalior (M.P.) with the present petitioner since last four years is missing from 08/05/2019. She tried to search her here and there but she could not trace her. On her information, missing report No.48/2019 was registered and investigation was initiated. On the basis of investigation, FIR bearing Crime No.530/2019 was registered against the petitioner for the aforementioned offences. Thereafter, spot map was prepared and statements of the complainant and witnesses were recorded in which complainant expressed the doubt of killing her sister upon the petitioner. Thereafter, on 08/05/2019, one dead body was found at Datia and *Dehati Nalisi* was registered. Thereafter, Merg was registered against the unknown person and on the basis of merg, FIR bearing Crime No.246/2019 was registered at Police Station- Kotwali, District- Datia (M.P.) for the offence under Sections302/201 of IPC and after identification of the dead body, the case was transferred to Gwalior. After transferring the same, police started investigation in the matter and during investigation, statements of the family members of the deceased were recorded.

Learned counsel for the petitioner submits that petitioner has been falsely implicated in this case and he is not involved in the case directly or indirectly. He has been implicated in the present case only on the basis of memorandum recorded under Section 27 of Evidence Act which is not at all admissible. It is

further submitted that FIR was lodged against the petitioner after lapse of more than two months. In support of his contention, counsel for the petitioner relied upon a judgment passed by the co-ordinate Bench of this Court in **Pradeep Sharma Vs State of M.P. passed in CRR No.1789/2020 dated 14.08.2020.**

Learned State counsel has conceded the arguments advanced by the learned counsel for the petitioner.

Heard the learned counsel for the parties and perused the record available on record.

After hearing learned counsel for the parties and looking to the facts and circumstances of the case, this Court is inclined to allow this petition. Accordingly, this petition is allowed and FIR bearing Crime No.530/2019 registered at Police Station- Bahodapur, District- Gwalior (M.P.) for the offence punishable under Section 366 of IPC read with Section 3(2)(v) of the SC/ST Act, Section 365 of IPC read with Section 3(2)(va) of the SC/ST Act, Section 364 of IPC read with Section 3(2)(v) of the SC/ST Act, Section 302 of IPC read with Section 3(2)(v) of the SC/ST Act and Section 201 of IPC and other consequential proceedings pending in S.S.T. No.320/2019 before Special Session Judge (SC/ST Act), Gwalior (M.P.) against the petitioner are hereby quashed. Petitioner is discharged from all the charges of the present case.

The petition is **allowed** and **disposed of**.

Certified copy as per rules.

(DEEPAK KUMAR AGARWAL)
JUDGE

RAHUL SINGH PARIHAR

Digitally signed by RAHUL SINGH PARIHAR
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