

**IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR**

BEFORE

HON'BLE SHRI JUSTICE GURPAL SINGH AHLUWALIA

ON THE 26th OF APRIL, 2024

MISC. CRIMINAL CASE No. 45536 of 2023

BETWEEN:-

1. **CHANDRAKANT YADAV S/O SHRI
KARANSINGH YADAV, AGED ABOUT 18
YEARS, OCCUPATION: JOURNALIST
RESIDENT OF VILALGE GUDHA RATOUSA
POLICE STATION KATERA DISTRICT
JHANSI (UTTAR PRADESH)**
2. **JAGDISH PRASAD DIXIT S/O SHRI
RAMSEVAK DIXIT, AGED ABOUT 46 YEARS,
OCCUPATION: BUSINESS RESIDENTS OF
VILLAGE GUDHA RATOUSA POLICE
STATION KATERA DISTRICT (UTTAR
PRADESH)**

.....PETITIONERS

***(BY SHRI MANISH DATT- SENIOR ADVOCATE WITH SHRI SHUBHAM
MISHRA - ADVOCATE)***

AND

1. **THE STATE OF MADHYA PRADESH
THROUGH POLICE STATION NIWARI
DISTRICT TIKAMGARH (MADHYA
PRADESH)**
2. **SMT. DEVA PAL W/O LATE SHRI
RAJENDRA PAL, AGED ABOUT 35 YEARS,
RESIDENT OF NAI BASTI MAURANIPUR
JHANSI DISTRICT (UTTAR PRADESH)**

.....RESPONDENTS

***(SHRI MOHAN SAUSARKAR – GOVERNMENT ADVOCATE FOR
RESPONDENT NO.1 / STATE AND NONE FOR RESPONDENT NO. 2
THOUGH SERVED)***

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

ORDER

1. This application under Section 482 of Cr.P.C. has been filed seeking the following reliefs :-
 - (i) Call for the entire records pertaining to the offence recorded vide Crime No.256 of 2019.
 - (ii) Quash and set aside the orders dated 30.08.2022 passed by the Court of Chief Judicial Magistrate, Tikamgarh vide MJCR No. 84 of 2021 and 21.9.2023 passed by the Court of Mr. Hitendra Singh Sisodiya, H.J.S. Sessions Judge, Tikamgarh, District – Tikamgarh (MP) vide Criminal Revision No.215/2022.
 - (iii) This Hon'ble Court be kind enough to direct that the Khatma filed by the Police be accepted and the proceedings be quashed.
 - (iv) That, this Hon'ble Court be kind enough to grant such other relief / reliefs to the petitioner as deemed just and proper in the facts and circumstances of the case.
2. It is submitted by counsel for the applicants that the police after concluding the investigation came to a conclusion that no case is made out and accordingly, filed the closure report. However, C.J.M. Tikamgarh by order dated 30.8.2022 passed in MJCR No.84/2021 rejected closure report and directed that investigating agency to file the charge sheet.
3. Relying upon the judgment passed by the Supreme Court in the case of **Abhinandan Jha and others vs. Dinesh Mishra**, reported in **AIR 1968 SC 117**, it is submitted that when a closure report is filed, then the concerning Magistrate has three options i.e. (i) to accept the closure report, (ii) to reject the closure report and to take cognizance and (iii) to direct for

further investigation after pointing out lapses on the part of the investigating officer. The Magistrate has no discretion to direct the police to file charge sheet and by the impugned order, C.J.M. Tikamgarh had directed the investigating agency to file the charge sheet.

4. Being aggrieved by the said order, the applicants preferred a revision which too has been dismissed by the Session Judge, Tikamgarh by order dated 21.9.2023 passed in Criminal Revision No. 215/2022. It is submitted that even Revisional Court lost sight of the fact that option of directing the police to file charge sheet is not available under the facts and circumstances of the case.
5. *Per contra*, the application is vehemently opposed by counsel for the State.
6. None for respondent no. 2, though treated to be served by the office.
7. Heard learned counsel for the parties.
8. Pivotal question for consideration is that when a closure report is filed, then what options are available with the Magistrate. The Supreme Court in the case of **Abhinandan Jha (supra)** has held as under :-

“15. Then the question is, what is the position, when the Magistrate is dealing with a report submitted by the police, under Section 173, that no case is made out for sending up an accused for trial, which report, as we have already indicated, is called, in the area in question, as a ‘final report’? Even in those cases, if the Magistrate agrees with the said report, he may accept the final report and close the proceedings. But there may be

instances when the Magistrate may take the view, on a consideration of the final report, that the opinion formed by the police is not based on a full and complete investigation, in which case, in our opinion, the Magistrate will have ample jurisdiction to give directions to the police, under Section 156(3), to make a further investigation. That is, if the Magistrate feels, after considering the final report, that the investigation is unsatisfactory, or incomplete, or that there is scope for further investigation, it will be open to the Magistrate to decline to accept the final report and direct the police to make further investigation, under Section 156(3). The police, after such further investigation, may submit a charge-sheet, or, again submit a final report, depending upon the further investigation made by them. If, ultimately, the Magistrate forms the opinion that the facts, set out in the final report, constitute an offence, he can take cognizance of the offence, under Section 190(1)(b), notwithstanding the contrary opinion of the police, expressed in the final report.”

9. Thus, it is clear that if the Magistrate is of the view that closure report filed by the police is not worth acceptance, then only option available to it, was

to take cognizance. Accordingly, direction given by C.J.M. Tikamgarh by order dated 30.8.2022 passed in MJCR No. 84/2021 as well as order dated 21.9.2023 passed by the Session Judge, Tikamgarh in Criminal Revision No. 215/2022 are hereby **set-aside**. The matter is remanded back to C.J.M. Tikamgarh to decide the closure report afresh in the light of the law laid down by the Supreme Court in the case of **Abhinandan Jha (supra)**.

10. Let decision be taken within a period of three months from today.

11. Office is directed to immediately send a copy of this order to C.J.M. Tikamgarh for necessary information and compliance.

12. Interim order dated 4.4.2024 is hereby **recalled**.

(G.S. AHLUWALIA)
JUDGE

JP