

CASE NO.:
Appeal (crl.) 173 of 2008

PETITIONER:
Anand Mahindra

RESPONDENT:
Saudan Singh & Anr

DATE OF JUDGMENT: 23/01/2008

BENCH:
S.B. SINHA & V.S.SIRPURKAR

JUDGMENT:
JUDGMENT

ORDER

CRIMINAL APPEAL NO. 173 /2008
(@SLP(Crl.) No. 3811/2006)

Leave granted.

This appeal is directed against the judgment and order dated 16.5.2006 passed by the learned Single Judge of the High Court of Madhya Pradesh, Gwalior Bench in Misc. Criminal Case No. 2299 whereby and whereunder an application filed by the appellant herein for quashing of a complaint under Sections 379,406,420,467 r/w 120-B of the Indian Penal Code filed by the first respondent, whereupon cognizance has been taken by the Additional Chief Judicial Magistrate, Vidisha by an order dated 6.3.1998, was dismissed.

Appellant herein is the Managing Director of M/s Mahindra & Mahindra Ltd., a Public Limited Company manufacturing vehicles including one known as Commander Jeep. Indisputably, the Company has appointed dealers to sell their

-1-

products. First respondent herein is said to have purchased one Commander Jeep from Bhopal Motors Ltd. on 19.9.1997. The said vehicle was found to be defective. According to the complainant in place of new engine an old engine was fitted and thereupon old engine No. embossed. It was further stated that gear box and clutch plates of the vehicle were not from the original company and it got slipped once the vehicle ran.

We have been taken through the complaint petition. We fail to understand as to how the complaint petition even if given face value and taken to be correct in its entirety constituted an offence so as to enable the Additional Chief Judicial Magistrate to take cognizance thereof under Sections 379,406,420,467 r/w 120-B of the Indian Penal Code and process issued against the appellant. Strangely enough all the accused persons named in the complaint petition are stated to be Managing Directors of Bhopal Motors Ltd, Sanghi Brothers and M/s Mahindra & Mahindra Ltd. The complaint petition does not name any individual. Summons, admittedly, therefore would not issued in the names of individuals. An offence under the Indian Penal Code particularly an offence of conspiracy must precede

-2-

application of mind by the persons who are accused of committing such an offence.

The complaint petition, therefore, ex-facie was not maintainable.

We are, therefore, of the opinion that the High Court committed a serious error in not interfering in the matter as continuation of the proceeding as against the appellant herein amounts to abuse of process of the Court.

The impugned judgment is set aside. The appeal is allowed.

JUDIS