

Madhya Pradesh Quashes Prosecution in the Absence of Prima Facie Evidence

SWAPNIL BHATT (CASE No. 33356 of 2022)

Facts:

1. According to the investigator, some persons indulged in unauthorized 'Forward Trading' or 'Dabba Trading' outside the portal of MCX by using 'Meta Trade-5' software. This software was developed and owned by Meta Quotes Inc.
2. It had been alleged that the petitioners earned crores of Rupees in profit towards the brokerage for the trading on the MT-5 software. The alleged profit earned on this dummy software did not reflect on the books of accounts of the petitioner.
3. Even after intimation given by the investigator, the income tax authorities or any other tax authorities did not initiate any inquiry on the alleged profit earned.

Hon Madhya Pradesh HC held as below:

1. There is no evidence to show that any device, mobile phone, or server having MT-5 software belongs to the petitioners, the seizure of the server manifestly violates the procedure prescribed by law, the procedure to retrieve data from the server is not in conformity with the law and creates doubt, the data provided for analysis is itself unreliable.
2. So all reports based upon such data, which has been heavily relied upon by the prosecution are liable to be rejected at the threshold especially when the prosecution has nothing to say against an allegation of bias, arbitrariness, hi handedness and also against the conduct of the investigators.

3. The continuation of the prosecution of the petitioners is nothing but an abuse of the process of law, suffers with malice, and to secure the ends of justice deserves to be and is quashed hereby.