

H. Vasu and Others Vs. State of Karnataka

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Court : Karnataka

Decided On : Mar-11-2014

Judge : S.N. Satyanarayana

Appeal No. : Criminal Petition No. 794 of 2014

Appellant : H. Vasu and Others

Respondent : State of Karnataka

Judgement :

(Prayer: This CrI.P Is Filed U/S. 482 Cr.P.C Praying To (A) Quash The Charge Sheet Dated:6.11.13 In Respect Of Crime No. 175/11 (C.C.NO.842/13) Vide Annexure-J. (B) To Quash The Cr. Proceedings Bearing C.C.No.842/2013 On The File Of The Hon'ble Jmfc-Tti Mysore, Vide Annexure-K.)

1. Accused 1 to 7 and 9 to 12 in Crime No. 175/2011 registered with Krishna Raja Police, Mysore and subsequently converted in to CC.No.842/2013 on the file of Judicial Magistrate First Class (III), M3rsore, have come up in this petition seeking quashing of aforesaid crime number as well as CC.842/2013 which is registered for offences punishable under Sections 420.. 465, 468, 474 r/w 34 of IPC.

2. It is not in dispute that the matter is referred to investigation and subsequently, charge sheet is filed for an offence punishable under Section 420 r/w 34 of IPC, which is challenged by accused 1 to 7 and 9 to 12. So far as accused No.8 is concerned, it is stated that he died subsequently. This petition is filed on the

ground that, prior sanction is required under Section 111(2) of the Karnataka Cooperative Societies Act, 1959, more particularly, with reference to the proviso which necessitates for sanction of the Registrar or Director of Cooperative Audit. Said Section is culled out hereunder for the sake of convenience.

"111 (2) No prosecution shall be instituted under this Act without the previous sanction of,-

(a) The Director of Co-operative Audit in respect of matters arising out of audit other than matters relating to cooperative credit structure society;

(b) the Registrar in respect of other matters including matters relating to audit in respect of co-operative credit structure society;

Provided that no sanction of the Registrar or the Director of Co-operative Audit shall be necessary for filing criminal complaint against the delinquents for alleged misappropriation or embezzlement of funds of a cooperative society detected during the course of audit, inquiry or inspection or in the normal course of business of a cooperative society.

3. On going through the aforesaid provision of law, it is clearly seen that, in the event of any offence alleged against any of the Directors or Officers of the society, if it is with reference to alleged misappropriation or embezzlement of funds of the society or if it is in the matter relating to audit in respect of the cooperative credit structure of the society and other matters, then sanction is required. In the present case, the offence alleged is with reference to appointment of accused Nos. 11 and 22 in the aforesaid proceeding to the society without following the procedure that was required to be followed for the appointment of said persons. The offence alleged basically is an offence punishable under the provisions of India Penal Code and not an offence the cognizance of which can be taken under the Karnataka Cooperative Societies Act, 1959 as envisaged in the aforesaid Section. In that "jew of the matter, this Court is of the opinion that this petition filed seeking quashing of proceeding pending in CC.No.842/2013 is misconception and the same cannot be entertained in this proceeding.

4. Accordingly, this criminal petition is dismissed. However, it is made clear that in the proceeding to be decided before the learned Magistrate, he shall assess the material available on record independently without being influenced by any of the observations made in this order.

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