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Court : Karnataka Dharwad

Decided On : Jun-05-2014

Judge : K.N. Phaneendra

Appeal No. : Criminal Petition No. 100202 of 2014

Appellant : Sangmesh and Others

Respondent : The State Of Karnataka and Another

Judgement :

(Prayer: This Criminal Petition Is Filed U/S 482 Of Cr.P.C. Seeking To Quash The Fir Registered In P.S. Crime No.323/2013 Of Bailhongal Police On The Basis Of The Complaint Lodged By The Respondent No.2. I.A. No. 1/2014 Is Filed For Grant Of Stay.)

1. Heard learned counsel for the petitioners, learned High Court Government Pleader for respondent No.1 - State and learned counsel for respondent No.2. Perused the records.

2. The petitioners, who are arrayed as accused Nos.1 to 5 in Crime No.323/2013 on the file of Bailhongal police, have approached this Court for quashing of first information report.

3. The record discloses that one Smt. Deepa Sangamesh Kadrolli, wife of petitioner No.1 has lodged a complaint before the Bailhongal police stating that on

25.05.2013 she was given in marriage to the petitioner No.1 and thereafter she started to reside in her matrimonial home. It is specifically alleged that for about three months she was in her matrimonial house and thereafter petitioners started to ill-treat and harass her on the ground of demand of gold articles as well as money. It is further alleged that they were abusing, mentally ill-treating and assaulting her in demand of money. In this regard, it is alleged that, on 11.12.2013 they had entered into compromise between themselves. But, inspite of that the petitioners have not desisted from ill-treating her. It is stated that, on 22.12.2013 all the accused persons have assaulted her in demand of money and have threatened her with dire consequences of killing her. They have also driven her out from the matrimonial home by saying that they would perform second marriage to petitioner No.1. Therefore, complaint has been lodged against them.

4. Learned counsel for petitioners strenuously contends that petitioner Nos.1 to 5 were not present in their house on that particular date and they have committed any such offence. He has submitted that petitioner No.1 was evaluating the answer scripts in V.T.U. University Campus Belgaum from 17.12.2013 to 23.12.2013. Petitioner No.4 had been to attend the Taluka Sports Meet on that day from 8 a.m. to 6 p.m. Therefore, he contends that a false case has been foisted against them.

5. On going through the above said facts and circumstances, at this stage it cannot be said that there is no truth in the said allegations. The allegations made in F.I.R. have to be investigated by police in order to find out whether there is any truth or falsity in the same. Though petitioner Nos.1 and 4 have produced two documents to show their absence in the house on the date of incident, but these documents are again subjected to proof. Whether these documents are genuine and issued by competent authorities have to be tested by the police and if it is found that those documents are proper and correct petitioner Nos.1 and 4 may file an appropriate report before the Court.

At this stage this Court cannot come to any conclusion or draw any inference with regard to the report, which is yet to be filed by police after completing the investigation. Therefore, at the threshold, this Court cannot directly come to a

conclusion that the entire contents of F.I.R. are false and complainant has foisted a false case and under such circumstances the proceedings cannot be quashed. It is worth to note here a decision of the Hon'ble Apex Court reported in -(2012) 9 SCC 460 between Amit Kapoor vs. Ramesh Chander and Another.

6. The Hon'ble Supreme Court had laid down certain guidelines particularly at paragraph 27.13, which is applicable to the present case. Wherein, it has been observed that -

" Quashing of a charge is an exception to the rule of continuous prosecution. Where the offence is even broadly satisfied, the Court should be more inclined to permit continuation of prosecution rather than its quashing at that initial stage. The Court is not expected to marshal the records with a view to decide admissibility and reliability of the documents or records but is an opinion formed prima facie."

7. Therefore, in view of the above said decision and the facts of this case, the present petition deserves to be dismissed. Accordingly, petition is dismissed. The learned for petitioners is permitted to take back the original records and file. Office is hereby directed to return the same.

In view of dismissal of main petition, I.A. No.1/2014 for grant of stay does not survive for consideration. Accordingly, I.A. No.1/2014 is dismissed.

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