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Court : Karnataka Dharwad

Decided On : Jun-05-2014

Judge : K.N. Phaneendra

Appeal No. : Writ Petition No. 100126 of 2014 (GM-RES)

Appellant : Hanumappa

Respondent : Nagappa and Others

Judgement :

(Prayer: This Writ Petition Is Filed Under Articles 226 And 227 Of The Constitution Of India, Praying To Quash The Charge Sheet Submitted Against The Petitioner Vide Annexure-C And Etc.)

1. Heard learned counsel for the petitioner and learned Additional State Public Prosecutor for respondent Nos. 2 to 5 - State. Perused the records.
2. The petitioner herein has sought for quashing of the entire proceedings in C.C. No.207/2012 pending on the file of Civil Judge (Sr.Dn.) and Prl. J.M.F.C., Ranebennur, which was registered against the petitioner for the offences punishable under Sections 279 and 304A of the Indian Penal Code, 1860 (hereinafter referred to as 'I.P.C.' for brevity).
3. The main contention of learned counsel for petitioner is that in this particular case complainant by name Nagappa is the first informant and eye-witness to the

incident. In the first information report he has stated that on 04.09.2012 in the evening, himself and his cousin by name Girish were proceeding towards Hole Honnatti by walk, and while coming back, when they reached near Waddinakeri near Ranebennur, on Guttal road, some persons came on a motor-cycle by riding the same in a rash and negligent manner and dashed against Girish and caused the accident. As such Girish fell down on the ground and sustained injuries. Thereafter, he was shifted to hospital. The informant has observed that the motor-cycle was of Pulsar company bearing its Reg. No.KA 27 W 9854 and the rider of that vehicle was one Ramesh Shankrappa Rathod @ Lamani. On the basis of first information report police have registered a case and started the investigation. During the course of investigation further statement of complainant i.e., the informant was recorded on the very next day i.e., on 06.09.2012, wherein he has stated that the vehicle which caused the accident on that day was bearing Reg. No.KA- 25/TRA 501 and it was driven by petitioner herein by name Hanumappa S/o. Somalappa Lamani.

4. Learned counsel for petitioner strenuously contended that there is a sea change between first information report as well as subsequent statement of this witness. Of course, learned counsel for the petitioner is right in contending that there are changes in motor-cycle number, name of the accused in the subsequent statement of first informant.

5. The learned Additional State Public Prosecutor has drawn my attention to the statements of other witnesses, who are also the eye-witnesses to incident. The statement of one Manjunath was recorded on 05.09.2012 itself and he has stated that the accident was caused by Hanumappa i.e., petitioner. He has also narrated that the first informant has given the name of some other person and has also changed the motor-cycle number, but he says that he is an eye-witness to the incident and he has disclosed the name of petitioner herein on the same day on 05.09.2012 itself. Again one more witness by name Chandrappa was also examined by police. He has also stated about the name of this petitioner, who has caused the accident on that particular day. Another witness by name Nagaraj, whose statement was also recorded on 05.09.2012 he has also implicated the petitioner herein as the person who has caused the accident. Looking to the above

said statements of the witnesses, in fact the subsequent statement of complainant is fully supported by other materials on record. If the statement in the F.I.R. is wrong or any false materials have been furnished by him, it should be thrashed out as to whether it amounts to any material contradiction. At the time of appreciating the evidence on record the Court has to come to the conclusion that whether such statement of the witness has to be believed or the other materials on record have to be believed. Therefore, at this stage, merely because there is some discrepancy with regard to the F.I.R. and the subsequent statement of the same witness compared to the other eve-witness to the incident the Court cannot draw an inference that the entire charge sheet has been filed by police with false information by the first informant, and therefore, I do not find any strong reason to interfere with the charge sheet filed by police and the cognizance taken by learned Magistrate. Hence, petition deserves to be dismissed. Accordingly, petition is dismissed.

The observations made in this order should not be taken for consideration by the learned Magistrate at the time of appreciating the evidence on record and is at liberty to independently assess the evidence.

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