

Shivanand and Others Vs. The State of Karnataka represented by Assistant Commissioner and Sub Divisional Magistrate and Others

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Court : Karnataka Dharwad

Decided On : Dec-02-2016

Judge : S.N. Satyanarayana

Appeal No. : CRL. R.P. No. 100221 of 2016 C/W CRL. R.P. Nos. 100222, 100223, 100224, 100225, 100232, 100233, 100234, 100235 of 2016

Appellant : Shivanand and Others

Respondent : The State of Karnataka represented by Assistant Commissioner and Sub Divisional Magistrate and Others

Judgement :

(Prayer: This Criminal revision petition is filed under section 397 read with section 401 of CR.P.C., seeking to allow this petition by setting aside order dated 03.09.2016 passed by the Sub divisional Magistrate, Jamakhandi subdivision, Jamakhandi, in MAG/CR/-135/2016-17 dated 03.09.2016, etc.,

This Criminal revision petition is filed under section 397 read with section 401 of CR.P.C., seeking to allow this petition by setting aside order dated 03.09.2016 passed by the Respondent No.1 Sub divisional Magistrate, Jamakhandi subdivision, Jamakhandi, in MAG/CR/-135/2016-17 dated 03.09.2016, etc.,)

1. Petitioners are residents of Mudhol town, Mudhol taluk in Bagalkot district. All the 9 petitioners have come up in these 9 petitions impugning the order dated 3.9.2016 passed in each case by the Assistant Commissioner of Jamakhandi, who is also Sub-Divisional Magistrate of Jamakhandi who by his order dated 3.9.2016 has exterminated the petitioners from the District of Bagalkot for a period of three months from 3.9.2016 to 3.12.2016, on the premise that they are habitual offenders creating commotion and unrest in the society, particularly when there are religious and social function in the town of Mudhol.

2. Notice is given to each one of them under Section 55 of the Karnataka Police Act, 1963 calling for objections, if any, so as to why they should not be exterminated from the town of Mudhol. Though under section 58 of the said Act there is a right to petitioners herein, for filing objections and also producing witnesses to adduce evidence in support of their defence not to be exterminated from the said town, they have not utilized the same except filing objections. The Assistant Commissioner who is also Sub-Divisional Magistrate of Jamakhandi after considering the said objections has passed the order impugned in each of the cases exterminating the petitioners from the town of Mudhol for a period of three months from 3.9.2016 to 3.12.2016 which are challenged in these petitions.

3. The records would disclose that initially an order of stay was granted on 15.9.2016 which is extended from time to time till 22.11.2016 on which day this Court directed the learned HCGP to furnish particulars of pending litigations against the petitioners in each case for a period from 2015 to the date of filing of separate petitions in each case. Accordingly this day a memo is filed by the learned HCGP indicating the number of cases, which are pending against each one of them not only for the period of 2015-16, for earlier period also.

4. When this is looked into, in CrI.R.P.No.100221/2016, the number of proceedings pending against the petitioner Shivanand Gurav are four in number for the year 2015-16. Similarly in CrI.R.P.No.100232/2016, there are 10 proceedings pending against the petitioner Anand Vithal Lonari for 2015-16. In CrI.R.P.No.100235/2016, there are two proceedings pending against the petitioner Sandeep Nimabalkar for the year 2015-16 and four for the year 2013-14. In

Crl.R.P.No.100233/2016, there are eight proceedings pending against the petitioner Sadashiva Shivaji Jadhav for the year 2015-16. In Crl.R.P.No.100234/2016, there are five proceedings pending against the petitioner Kiran Pralhad Paloji for the year 2015-16 and four proceedings for the year 2013-14. In Crl.R.P.No.100222/2016, there are 7 proceedings pending against the petitioner Shivanand Badiger for the year 2015-16 and three proceedings for the year 2013-14 and in one proceedings of the year 2011 he was convicted. In Crl.R.P.No.100223/2016, there are 11 proceedings pending against the petitioner Parashu S/o. babu @ Sakaram Nigade for the year 2015-16. In Crl.R.P.No.100224/2016, there are 16 proceedings are pending against the petitioner Shivanand @ Shivu Basappa Betageri for the year 2015-16 and three proceedings of the year 2011 he was convicted. In Crl.R.P.No.100225/2016, there are 9 proceedings pending against the petitioner Shankargouda S/o.Ravi @ Ravindra Patil, for the year 2015-16 and three proceedings for the year 2013-14.

5. With this it is clearly seen that they are not the people who can be trusted in the midst of the law abiding citizens considering their attitude and behavior in being involved in several cases, which are initiated against them under various provisions of IPC. Therefore the apprehension of the Sub-Divisional Magistrate namely the Assistant Commissioner of Jamakhandi in expecting trouble by these people is justified. The extermination order which was passed for a period of three months from 3.9.2016 to 3.12.2016 would come to an end this day. This Court while considering the nature of offences in which the petitioners are involved observe that, though these petitions are dismissed, in view of stay order the petitioners have not served the period of extermination.

6. Hence it is made clear that the said period of extermination shall commence from 3.12.2016 and shall be in force for a period of two months to make them understand what would be the consequence of not being a law abiding citizen. Therefore while dismissing the petitions filed by them, the order passed by the Assistant Commissioner and Sub-Divisional Magistrate, Jamakhandi is confirmed by altering the date from which the extermination period commences as 3.12.2016 to 3.2.2017. Accordingly all these petitions are disposed of a copy of this order shall be made available to the learned HCGP to communicate the same to the

respondent Sub-Divisional Magistrate of Jamakhandi who is also the Assistant Commissioner of the said taluka and to see that the present order is implemented.

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