

Abb India Ltd Vs. State Of Karnataka

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Court : Karnataka

Decided On : Nov-30-2020

Judge : K.Somashekar

Appeal No. : CRL.P 6332/2015

Appellant : Abb India Ltd

Respondent : State Of Karnataka

Judgement :

R IN THE HIGH COURT OF KARNATAKA AT BENGALURU DATED THIS THE30H DAY OF NOVEMBER, 2020 BEFORE THE HON'BLE MR. JUSTICE K. SOMASHEKAR CRIMINAL PETITION NO.6332/2015 BETWEEN:

1. ABB INDIA LTD., PLOT NO.4-A, 5 & 6, 2ND PHASE, PEENYA INDUSTRIAL AREA, BANGALORE560058, REPRESENTED BY SRI.K.GOPALA, VIDE PRESIDENT (INDUSTRIAL RELATIONS) 2. SRI SHYLENDRA KUMAR, AGED ABOUT49YEARS, S/O MARUTHI RAO, PRODUCT GROUP MANAGER, ABB INDIA LTD., PLOT NO.4-A, 5 & 6, 2ND PHASE, PEENYA INDUSTRIAL AREA, BANGALORE560058.

3. SRI SADIQ ULLA A.N.M, AGED ABOUT44YEARS, S/O ABDUL RAHIM, ABB INDIA LTD., PLOT NO.4-A, 5 & 6, 2ND PHASE, PEENYA INDUSTRIAL AREA, BANGALORE560058.

4. SRI SATHYANARAYANA A, AGED ABOUT 48 YEARS, S/O ANNAYAPPA, 2 (SHIFT LEADER) ABB INDIA LTD., PLOT NO.4-A, 5 & 6, 2ND PHASE, PEENYA INDUSTRIAL AREA, BANGALORE 560058. PETITIONERS (BY SRI.C.V.NAGESH, SENIOR COUNSEL A/W MR.K.RAGHAVENDRA, ADVOCATE, V/C) AND:

1. STATE OF KARNATAKA, BY THE STATION HOUSE OFFICER, PEENYA POLICE STATION, BANGALORE 560058.

2. SRI N.B.AMITH KUMAR, AGED ABOUT 21 YEARS, S/O BASVARAJU, RESIDENT OF THE PREMISES BEARING NO.34, NIDDUDI VILLAGE, DODDAPURA POST, KASABA HOBLI, HASSAN DISTRICT 573201. RESPONDENTS (MS.RASHMI JADHAV, HCGP FOR R1 (P/H) SRI.SRIDHARA T, ADVOCATE FOR R2) THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.PC, PRAYING TO QUASH THE FIR IN CR.NO.719/2015 REGISTERED AT PEENYA POLICE STATION, BANGALORE, FOR AN OFFENCE WHICH IS MADE PENAL U/S 337 R/W 34 OF IPC ON THE BASIS OF THE COMPLAINT FILED BY THE SECOND RESPONDENT. THIS CRIMINAL PETITION COMING ON FOR HEARING THIS DAY THROUGH VIDEO CONFERENCING THIS DAY, THE COURT MADE THE FOLLOWING:

3.

ORDER

Petitioners 1 to 4 are arraigned as accused in Crime No.719/2015 for an offence punishable under Section 337 r/w 34 of IPC, 1860 registered by the Peenya Police, Bengaluru City. In this petition, they are seeking for quashing of the entire criminal proceedings initiated against them.

2. Sri.C.V.Nagesh, learned Senior counsel for the petitioner is appearing through video conferencing. Consequently, heard his arguments. But none appeared for respondent No.2 either through video conferencing or present before the Court physically. Merely because respondent No.2 is arraigned in this petition, he cannot independently step into the shoes of prosecution. But respondent No.1 is represented by learned HCGP for assisting the prosecution in this proceedings.

Consequently, heard the arguments on behalf of respondent No.1, who is represented by learned HCGP.

3. It is transpired in the case of the prosecution that on 29.3.2015 while the complainant - respondent No.2 was working in the Electrical High Voltage Testing Unit as a Trainee, he has received an electric shock and due to that electric shock he has suffered some burn injuries on his left palm and left toe. Respondent No.2 who is the author of the complaint is said to have taken to Columbia Asia Hospital at Yeshwanthpur, Bengaluru, in order to providing treatment for him as he has sustained burn injuries due to electric shock. Subsequent to providing treatment, the injured was discharged from the hospital and also came to be certified as physically fit to discharge his duties. Petitioner No.1 which is an institution, on humanitarian grounds and also on compassionate grounds met with the medical expenses incurred on respondent No.2 - complainant. But due to the filing of the complaint by the complainant, the case in Crime No.719/2015 came to be registered for the offence punishable under Section 337 r/w 34 of IPC.

4. Learned Senior Counsel appearing for the petitioner has taken me through the allegations made by the complainant and contends that the complainant has filed the complaint after a lapse of 6 months and on the face of it, the allegations made therein do not disclose the commission of an offence by the petitioners to be arraigned as accused. That there are no ingredients so as to constitute the offence under Section 337 of IPC. Hence, on that ground alone it requires intervention by this Court under Section 482 of Cr.PC.

5. The second limb of the argument advanced by the learned Senior counsel is that unless and until it is provided under the relevant statute, vicarious liability cannot be fastened upon any one who is master of the person aggrieved even in respect of the offence punishable under Section 337 of IPC. And a master cannot be held liable unless and until the master has committed an act and which act alleged is responsible for the injuries sustained by the complainant. This being the settled position of law, the registration of the crime merely because of filing of complaint by the complainant and proceed with the case for investigation is bad in law, therefore, the first information report said to have been recorded by

respondent No.1 police deserves to be quashed, if not, certainly there shall be miscarriage of justice and abuse of process of law. On these 6 premises the learned Senior counsel seeks for allowing the petition and consequently, quashing the entire criminal proceedings initiated against the accused/petitioners in Crime No.719/2015.

6. As already been stated above, though respondent No.2 who is the complainant has engaged the services of learned counsel Sri.Sridhara T, neither the complainant nor his counsel have turned up to address their argument. But respondent No.2 in this petition is a formal party. When the complaint came to be registered by respondent No.1 and registered the complaint against the accused based upon the complaint then it is the State - respondent No.1 who has to be heard. Hence, heard the arguments advanced by the learned HCGP appearing for the State.

7. Learned HCGP submits that due to electric shock during the course of employment, the complainant had sustained burn injuries and he was shifted to Columbia Asia Hospital at Yeshwanthpura, Bengaluru City in order to provide treatment to him. However, when once the crime came to be registered by respondent No.1 against the accused, then the same requires investigation to lay either charge sheet or submit a report as per the relevant provisions under Cr.PC. When once the complaint came to be registered against the accused merely because the same came to be registered after lapse of 6 months does not mean that it requires intervention by this court for quashing of the proceedings initiated against the accused. On these grounds learned HCGP seeks for dismissal of the petition and to proceed with investigation by the investigating agency relating to the case in Crime No.719/2015 in accordance with the relevant provisions of Cr.PC.

8. In this context, it is relevant to refer to the provisions of Section 337 of IPC, 1860, which reads as under: Whoever causes hurt to any person by doing any act so rashly or negligently as to endanger human life, or the personal safety of others, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to five hundred rupees,

or with both. 8 9. In the instant case, the complainant alleged to have sustained burn injuries on 29.3.2015 at around 13.30 hours as reflected in FIR said to have been recorded by Peenya Police in Crime No.719/2015. This criminal proceedings came to be registered based on the complaint filed by Amit Kumar, who is said to have received electric shock while he was working in the Electrical High Voltage Testing Unit as a Trainee and due to the electrical shock, he has suffered some burn injuries on his left arm and left toe. The injured who is the author of the complaint is said to have taken to Columbia Asia Hospital situated at Yeshwanthpur, Bengaluru City in order to providing treatment for him. It is stated that he was taken to hospital on humanitarian grounds and on compassionate grounds and the medical expenses of the complainant were borne by the petitioners though he was covered by the Employees State Insurance and under the scheme he was required to take treatment for the injuries so sustained at said ESI Hospital rather than in a high-tech hospital at Columbia Asia Hospital. In fact, in the written complaint, the complainant has specifically stated that the Supervisor, namely Roopesh has given 9 Rs.3,000/- and the said cash was kept in his purse, two doctors of the company had been to hospital for about 4 days to see the condition of the injured and the complainant was provided with food by the company by engaging the services of a boy. Despite all these kind of treatment, after a lapse of 6 months, the complainant had lodged the complaint before respondent No.1 - police.

10. On a cursory glance of the entire materials, so also the ingredients to constitute the offence punishable under Section 337 of IPC, it is seen that merely because a compliant was registered, it cannot be said that investigation has to be done to lay the charge sheet against the accused. Under Section 173(2) of Cr.PC when once the FIR has been registered, it is the duty caste upon the investigating agency to follow the requisite provisions of Cr.PC to lay the charge sheet against the accused. But in order to exercise the power under Section 482 Cr.PC for quashing the criminal proceedings, the High Court when it comes to the conclusion that allowing the proceedings to continue would be an abuse of process of law and the ends of justice 10 require that the proceedings are to be quashed, the said power under Section 482 has to be exercised keeping in view the ingredients of the allegations made against the accused in the complaint filed

by the complainant, and similarly, the allegation made against the accused. Even in the criminal matters, it is designed to achieve a Salutory public purpose which is that a Court proceedings ought not to be permitted to degenerate into a weapon of harassment or persecution. In a criminal case, the very nature of the material on which the structure of the prosecution rests and the like would justify the High Court in quashing the proceeding in the interest of justice.

11. In the instant case, the power under Section 482 of Cr.PC, if not exercised, certainly there shall be a miscarriage of justice and also abuse of process of law when a criminal proceedings is manifestly launched with malafide intention or where the proceedings is instituted with an ulterior motive to gain something on the accused with a view to see that certain theory has to be set up to file a complaint against the accused to gain something. Therefore, in this petition this court has to exercise power under Section 482 of Cr.PC, if not exercised certainly securing the ends of justice and object and scope of Section 482 of Cr.PC would be defeated. Therefore, it is a fit case for the High court to exercise inherent power under Section 482 of Cr.PC to quash the entire criminal proceedings initiated against the accused in Crime No.719/2015.

12. Accordingly, I proceed to pass the following:

ORDER

The petition filed by the petitioners under Section 482 of Cr.PC is hereby allowed. Consequently, the criminal proceedings initiated against the accused in Crime No.719/2015 is hereby quashed. Accordingly ordered. Sd/- JUDGE nd

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