

B. Ravikumar Vs. Ananth

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Court : Karnataka

Decided On : Jan-09-2006

Reported in : 2006CriLJ1577; ILR2006KAR792; 2006(1)KarLJ581

Judge : V. Jagannathan, J.

Acts : [Code of Criminal Procedure \(CrPC\) , 1973](#) - Sections 200 and 482; Indian Penal Code (IPC) - Sections 420, 468, 471 and 474

Appeal No. : Criminal Petition No. 2071/2005

Appellant : B. Ravikumar

Respondent : Ananth

Advocate for Def. : S.S. Hiremath, Adv.

Advocate for Pet/Ap. : M.K. Bhaskaraiah, Adv.

Disposition : Petition dismissed

Judgement :

ORDER

V. Jagannathan, J.

1. This petition under Section 482 of the Cr.P.C. is filed praying for quashing the complaint that was registered against the petitioner herein and the consequent

proceedings before the learned C.J.M., Chickmagalur, in C.C. No. 434/2005 (earlier numbered as C.C. No. 3/2003), and also to set aside the order passed by the Addl. Sessions Judge, Chickmagalur, dated 5.2.2005 in CrI.R.P. No. 53/2004.

2. The facts in brief are to the effect that the respondent filed a complaint before the C. J.M., Chickmagalur, under Section 200 of the Cr.P.C. requesting the said Court to take cognizance of the offences punishable under Sections 420, 468, 471 and 474 of the I.P.C. alleging that the petitioner herein, along with two other persons, construed and forged the documents more particularly the GP.A. and got executed the sale deed with respect to the property owned by the father of the respondent. The Learned Magistrate referred the matter for investigation and following the submission of 'B' report and considering the objections filed by the complainant to the said, 'B' report, the Magistrate recorded the sworn statement of the complainant and the two witnesses and directed the case being registered against the petitioner herein and two others. The petitioner preferred revision petition before the Sessions Judge questioning the action of the Trial Court in taking cognizance of the offences and the Learned Sessions Judge, after hearing the parties, came to the conclusion that the Magistrate committed no illegality in registering the case against the petitioner and two others and consequently dismissed the revision petition as having devoid of any merit. The present petition is, therefore, filed seeking quashing of the complaint and the order passed by the Magistrate as well as the Learned Sessions Judge.

3. Heard the arguments of the Learned Counsel for the petitioner as well as the respondent.

4. The Learned Counsel for the petitioner submitted that certified copy of the GP.A. was not produced before the Trial Court and, in the absence of such document being produced, taking cognizance is illegal. The other averment made is that the father of the complainant was also not cited as a witness before the Learned Magistrate who took cognizance of the offences. It was further submitted that the very fact that the police filed 'B' report itself is indicative of the complainant's case having no necessary foundation to prosecute the petitioner herein. On the other hand, the Learned Counsel for the respondent submitted that

the Learned Magistrate has considered the complaint averments as well as the sworn statements and the material placed by the complainant through two more witnesses and, based on all these materials, directed the case being registered against the petitioner and others notwithstanding the submission of the 'B' report.

5. Having thus heard the Learned Counsel for the parties and after going through the entire material on record, the only question is whether this is a case fit enough to exercise the power conferred on this Court under Section 482 of the Cr.P.C. In this regard, it is worthwhile to refer to the recent pronouncement of the Apex Court in the case of State of Punjab v. Kasturilal 2005 AIR SCW 3306 wherein the Apex Court, dealing with the scope of Section 482 of the Cr.P.C, has observed thus:

Exercise of power under Section 482 of the Code is the exception and not the rule. The section does not confer any new powers on the High Court. It only saves the inherent power which the Court possessed before the enactment of the Code. It envisages three circumstances under which the inherent jurisdiction may be exercised, namely, (i) to give effect to an order under the Code, (ii) to prevent abuse of the process of Court, and (iii) to otherwise secure the ends of justice. Inherent jurisdiction under the Section though wide has to be exercised sparingly, carefully and with caution and only when such exercise is justified by the tests specifically laid down in the section itself. It is to be exercised *ex debito justitiae* to do real and substantial justice for the administration of which alone Courts exist.

6. If the facts and circumstances of the present case are examined keeping in view the above parameters of law, I do not see any good reason to interfere with the case being registered against the petitioners and, moreover, the Learned Sessions Judge has also dismissed the revision petition as lacking in merit, while observing that the Magistrate did take note of the complaint averments and the documents produced as well as the statements recorded under Section 200 of the Cr.P.C. and, therefore, the case of the petitioner is without any substance.

7. Moreover, this Court, under Section 482 of the Cr.P.C. cannot decide upon the truth or falsity of the case that is pending before the Magistrate and it is for the Trial Court to examine all these aspects. Since the case on hand does not fall within the circumstances under which this Court can exercise its inherent powers

this is not a fit case to exercise the said powers to quash the complaint or the proceedings pending before the Magistrate or for that matter, the order passed by the Learned Sessions Judge.

8. In the result, the petition is dismissed.

It is however made clear that the observations made herein above shall not be construed as an expression of opinion on the merits of the case.

The petitioner is directed to appear before the Trial Court on 24.1.2006.

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