

A. Ramesh Vs. State of Karnataka

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Court : Karnataka

Decided On : Feb-08-1989

Reported in : ILR1989KAR1695; 1989(1)KarLJ207

Judge : K. Ramachandriah, J.

Acts : [Indian Penal Code \(IPC\), 1860](#) - Sections 67

Appeal No. : Criminal Petn. No. 1558 of 1988

Appellant : A. Ramesh

Respondent : State of Karnataka

Advocate for Def. : A. Giddappa, Addl. State Public Prosecutor

Advocate for Pet/Ap. : G. Jayaraj, Adv. for M.T. Nanaiah

Judgement :

ORDER

1. The petitioner, who is an Advocate practising at Bangalore, has filed this Criminal Petitioner under S. 482 of the Criminal P.C. 1973, for quashing the proceedings pending against him in C.C. No. 37255/88 on the file of the Metropolitan Magistrate, Traffic Court, Mayohall, Bangalore, for an offence under Clause (r) of sub-section (1) of S. 92 of the Karnataka Police Act, 1963, for short the 'Act'.

2. The said case is registered against the petitioner on the basis of a Petty Case Charge-sheet placed against him by the Sub-Inspector of Police, Seshadripuram Police Station, Bangalore-20. The allegations made against the petitioner in Column No. 7 of the Said chargesheet read as under :-

3. Acting on the above extracted allegations made in the Chargesheet, the learned Metropolitan Magistrate has ordered on 22-10-1988 as under :-

'Issue summons to the accused'

4. The petitioner has contended in his petition that he has not committed the offence alleged against him and even if the entire allegations made in Column No. 7 of the Chargesheet are taken into consideration, they do not fall within the ambit of S. 92(1)(r) of the Act.

5. The essence of the allegations made against the petitioner are that he got written the following matter in red letters on a rectangular piece of cloth and exhibited the said banner on the top of a petty shop bearing the name 'Narayana General Stores' facing the S.C. Road, coming within the jurisdiction of Seshadripuram Police Station.

The petitioner has contended in his petition that he is a legal practitioner and an Officer of the Court and even if the entire documents and the statements of the witnesses produced along with the charge sheet filed against him are taken into consideration, they do not constitute the offence alleged against him and a false and frivolous charge sheet is filed against him with the active participation of the Investigation Officer, who is none other than the colleague of the concerned Sub-Inspector in respect of whose conduct the said banner is said to have been exhibited.

6. Shri G. Jayaraj, learned Counsel for the petitioner read the provisions of Clause (r) of S. 92(1) of the Act and submitted that even if the entire allegations made in Column No. 7 of the Charge Sheet are taken into consideration, they do not satisfy any of the ingredients of Clause (r) of S. 92(1) of the Act and, therefore, the learned Metropolitan Magistrate has committed an illegality in taking cognizance of

such a complaint and ordering issue of summons to the petitioner.

7. Shri A. Giddappa, learned Addl. State Public Prosecutor appearing for the respondent-State fairly, in my opinion, submitted that the above extracted allegations made in the petty case charge sheet do not amount to an offence under S. 92(1)(r) of the Act.

8. In my opinion also, they do not constitute an offence under S. 92(1)(r) of the Act, which reads as under :-

'92. Punishment of certain street offences and nuisance. -

(1) In any local area to which the Government by notification in the official Gazette from time to time extends this sub-section or any clause thereof, whoever, contrary thereto, -

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(r) uses in any street any threatening, abusive or insulting words or behaviour or posts up or affixes or exhibits any indecent, threatening, abusive or insulting paper or drawing with intent to provoke a breach of the peace or whereby a breach of the peace may be occasioned;

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shall be punished with fine which may extend to one hundred rupees, provided that imprisonment in default of payment of such fine shall not exceed eight days notwithstanding anything in S. 67 of the Indian Penal Code.'

9. The essential ingredients of the above extracted clause are that a person against whom the action is proposed to be taken under the said clause must have used in any street, any threatening, abusive or insulting words or he must have posted or exhibited any indecent, threatening, abusive or insulting paper or drawing with intent to provoke a breach of the peace or which may occasion breach of the peace.

10. It is not disputed that the above mentioned banner had been erected on the top of a petty shop situate by the side of S.C. Road. The word 'Street' as defined in S. 2(20) of the Act, includes any highway, bridge, way over a causeway, via duct, arch, quay or wharf or any road, lane, footway, square, court, alley or passage accessible to the public whether a thoroughfare or not. Therefore, it cannot be said that the banner in question had been exhibited on any street.

11. The next aspect to be examined is whether the exhibition of the said banner even if it can be assumed for the sake of arguments that it had been done by the petitioner would provoke breach of the peace or occasion a breach of the peace. It cannot be said on a plain reading of the above extracted contents of the banner that it is intended to provoke a breach of the peace or it may occasion breach of the peace inasmuch as no appeal is made to any member of the public to revolt against the concerned Sub-Inspector Lavakumar. All that can be made out from the said banner is that an appeal is made to the Chief Minister to immediately stop the high handed acts of Sub-Inspector Lavakumar. Therefore, I am of the view that exhibition of the said banner does not amount to an offence under S. 92(1)(r) of the Karnataka Police Act and, therefore, the learned Metropolitan Magistrate has committed an error in taking cognizance of the petty case Charge Sheet filed against the petitioner and ordering issue of summons to him.

12. In the result, therefore, the Criminal Petition is allowed and the entire proceedings pending against the petitioner in C.C. No. 37255/88 on the file of the Metropolitan Magistrate, Traffic Court, Mayohall, Bangalore are hereby quashed.

13 Petition allowed.