

Chikkaveerappa Vs. State of Karnataka and ors.

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Court : Karnataka

Decided On : Sep-06-1976

Reported in : 1977CriLJ82

Judge : D.B. Lal, J.

Appellant : Chikkaveerappa

Respondent : State of Karnataka and ors.

Judgement :

ORDER

D.B. Lal, J.

1. This criminal revision is directed against the order of the Chief Judicial Magistrate, Bangalore, dismissing a complaint under Section 203 of the Code of Criminal Procedure, merely after considering the 'B' report submitted by the police. The facts of the case being uncontroverted, are that a private complaint was instituted before the Magistrate by one Chikkaveerappa purporting to be for an offence under the Untouchability (Offences) Act of 1955. Instead of taking cognizance of the complaint under Section 200, the learned Magistrate asked for investigation by the police under Section 156(3), Criminal Procedure Code which he could do in view of the decision of this Court in Davud Bhai Hasan Ali v. Abhas Bhai (1971) 2 Mys LJ 526 : 1972 Cri LJ 970 and in Chemma v, Laxmichand (1970) 2 Mys LJ (S.N.) No. 226. The police in this case submitted a 'B' Report and the

learned Magistrate considering that report has chosen to dismiss the complaint which he could not obviously do. Once the Magistrate received a 'B' report and the complainant made a request to the Magistrate for his own statement and the statement of his witnesses, he had to relegate himself to the position under Section 200 and taking cognizance of the case under that section, he should have examined the complainant and the witnesses who were present. Thereafter, under Section 203, he could have considered the statement of the complainant and of the witnesses and the result of the investigation, and if no sufficient ground existed for proceeding, he could dismiss the complaint under Section 203. This he has not done and, therefore, the order of the Magistrate is incorrect and has got to be set aside.

2. The revision is therefore, allowed and the order of the Magistrate is set aside. The case is remanded for proceeding according to law.

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