

State of Mysore Vs. Kannan and ors.

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Court : Karnataka

Decided On : Jul-14-1971

Reported in : 1972CriLJ422

Judge : C. Honniah, J.

Appellant : State of Mysore

Respondent : Kannan and ors.

Judgement :

ORDER

C. Honniah, J.

1. All these petitions arise out of the orders passed by the Sub-Divisional Magistrate. Mysore holding that there were no sufficient grounds for proceeding against the respondents and releasing them forthwith. Aggrieved by these decisions, the State has Preferred these revision petitions.

2. As the question that is involved in all these revision petitions is one and the same, they are disposed of by this common order.

3. On various dates in the year 1969 one or the other Police Officers apprehended respondents at mid-night as they were found in suspicious circumstances and when the Police Officers questioned them, they were not able to give satisfactory

explanation for their presence at that time in those places. They were taken into custody under Section 55 of the Criminal P. C. and a case was registered against each of the respondents both under Sections 55. and 109 of the Criminal P. C. Pending investigation, respondents were produced before the Sub-Divisional Magistrate. Mysore, who passed the impugned orders releasing the respondents.

4. Section 55 of the Criminal P. C. deals With matters which are not offences. Under this Section, an Officer in charge of the Police Station may arrest -

(i) any person preparing to commit a cognizable offence under certain circumstances;

(ii) any person who has no ostensible means of subsistence; and

(iii) habitual offenders. This section also gives power to arrest any person who cannot give satisfactory account of himself. The power to be exercised under this section being an exceptional one and strong power, it has to be used with great caution. From the orders passed by the Sub-Divisional Magistrate. Mysore, it is clear that although the cases were filed against these respondents under Sections 55 and 109 of the Cri. P. C., for well over two months, no other material was placed to detain any one of the respondents either under Section 55 or 109 of the Criminal P. C. Keeping the accused (respondents) in such a situation would certainly amount to taking away the liberty of the individual. Mere mentioning the sections under which they are to be proceeded with is not sufficient to detain them in custody, unless the prosecution satisfies the Court that detention is necessary for a sufficient cause. Except filing the case against the respondents, the prosecution in this case seems to have taken no action and in these circumstances, the Sub-Divisional Magistrate was. in my opinion, justified in releasing them unconditionally forthwith.

5. In the result these petitions fail, and they are dismissed.