

Mandanna Vs. State of Karnataka

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Court : Karnataka

Decided On : Jul-27-1985

Reported in : ILR1985KAR2822

Judge : Venkatesh, J.

Acts : [Code of Criminal Procedure \(CrPC\) , 1973](#) - Sections 482

Appeal No. : Crl. Petn. Nos. 427 and 449 of 1985

Appellant : Mandanna

Respondent : State of Karnataka

Advocate for Def. : S.S. Koti, HCGP

Advocate for Pet/Ap. : A.V. Albal and ;C.B. Motaiya, Adv.

Disposition : Petition dismissed

Judgement :

ORDER

Venkatesb, J.

1. Since common questions of law and facts arise in these two proceedings, they were clubbed and heard together.

2. These are applications filed under Section 482 Cr.P.C. 1973. They are by persons who are arrayed or shown as the accused by the police in their respective crime numbers. The request is to quash the investigation that are being conducted by the concerned police.

3. Before examining the claims of the petitioners on merits, the first question that has to be resolved is as to whether this Court exercising its powers under Section 482 Cr.P.C. interfere with the investigation pending with the police.

4. Following a previous ruling of this Court in Chandrasekhara v. State, 1978(2) K.L.J. 273 and the decisions of the Supreme Court having a bearing on this question this Court, in Maheshwarappa v. State of Karnataka, 1983(2) K.L.J 85 has held that the High Court exercising its powers under Section 482 of the Code cannot interfere in the course of the investigation by the police or quash the first information report.

5. However, learned Counsel for the petitioners drawing my attention to Pratibha Rani v. Suraj Kumar and Another, : 1985 CriLJ817 and referring to some passages in the said Judgment submitted that the High Court may, in an appropriate case, exercising its powers under Section 482 of the Code, interfere with the investigation pending with the police or direct them not to proceed further.

6. I have carefully considered the aforesaid submissions of the Learned Counsel in the light of the decision of the Supreme Court in Pratibha Rani. I am unable to agree with the Learned Counsel. Some of the previous decisions of the Supreme Court wherein the said Court has clearly observed that it is not permissible for the High Court to interfere with the course of investigation exercising its powers under Section 482 of the Code have been referred to and followed by this Court in Maheshwarappa and also in the earlier ruling in Chandrasekhara. According to me the Supreme Court has not taken a different view of the matter in Pratibha Rani.

7. Though the possibility of the superior Courts interfering in the course of the investigation in exceptional cases is envisaged in some rulings of the Supreme Court, the source of that power is traced to the extraordinary powers reserved to them by the Constitution of the Country. The observations of the Supreme Court in

S. N. Sharma v. Bipen Kumar Tiwari & Others, : 1970 CriLJ764 and R. P. Singh v. J. A. C. Saldanna & Others, : 1980 CriLJ98 make this position clear. In Sharma's case the Supreme Court observes as under at para-7:

'It appears to us that, though the Code of Criminal Procedure gives to the police unfettered power to investigate all cases where they suspect that a cognizable offence has been committed, in appropriate cases an aggrieved person can always seek a remedy by invoking the power of the High Court under Article 226 of the Constitution under which, if the High Court could be convinced that the power of investigation has been exercised by a police officer mala fide, the High Court can always issue a writ of mandamus restraining the police officer from misusing his legal powers. The fact that the Code does not contain any other provision giving power to a Magistrate to stop investigation by the police cannot be a ground for holding that such a power must be read in Section 159 of the Code.'

In Saldanna's Case the Supreme Court, after referring to Sharma's Case have reiterated the said view.

8. For reasons aforesaid, I find no grounds to deviate from the ratio enunciated by this Court in Maheshwarappa's Case.

9. Accordingly being of opinion that the course of investigation pending with the investigating agencies should not be interfered with by the Court exercising its power under Section 482 Cr. P.C., I dismiss these two Petitions.

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