

State of Karnataka Vs. Channabasappa

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Court : Karnataka

Decided On : Aug-23-1985

Reported in : ILR1985KAR3290

Judge : Venkatesh, J.

Acts : [Code of Criminal Procedure \(CrPC\) , 1973](#) - Sections 200; [Essential Commodities Act, 1955](#) - Sections 3 and 7

Appeal No. : Crl. R.P. No. 510 of 1984

Appellant : State of Karnataka

Respondent : Channabasappa

Advocate for Def. : B.V. Deshpande, Adv.

Advocate for Pet/Ap. : S.S. Koti, HCGP

Disposition : Petition dismissed

Judgement :

ORDER

Venkatesh, J.

1. This revision is by the State. It is directed against the order dated 15-3-1984 of the Special Judge (District and Sessions Judge) Bellary in Special Case No. 9/83

on his file discharging these Respondents who were the accused in that case.

2. The Learned State Public Prosecutor contends that the order of the Court below discharging the accused was the result of amisreading of the facts of the case, and a wrong approach by it.

3. The facts of the case, in brief, are :

The Kampli Police of Bellary District filed a charge sheet against these Respondents in the month of September 1983 alleging that when their rice mill and its premises were raided and checked on 3-9-1982 by them, they had found the accused having not correctly maintained the stock of* Crl. R.P. No. 510 of 1984 dated 23rd August 1985.rice they had with them and of being in possession of 151 bags of rice in excess (i.e. unaccounted) and thereby being liable to be proceeded against under Sections 3 and 7 of the [Essential Commodities Act, 1955](#) (the Act). This was the accusation or charge the police had made in Col. No. 7 of the charge sheet. The said charge-sheet was presented by the police along with other papers like list of properties, panchanama, statements of witnesses etc. On receiving this charge sheet the Court ordered notices to the accused and on their appearance, after hearing their Counsel, the Court passed the aforesaid order discharging them.

4. We notice in the impugned order at para-2 that the Court below had construed the charge-sheet filed by the police as one for violation on the part of the accused of 'the provisions of the Karnataka Food Grains (Requisition of Stocks) Order, 1967 r/w. Sections 3 and 7 of the [Essential Commodities Act, 1955](#) (the Act)'. The Counsel appearing for the accused in the Court below had argued that no case for any offence under Sections 3 or 7 of the Essential Commodities Act had at all been made out against his clients, and that, on the other hand, the offence alleged, if any, was one that falls under the provisions of the Rice Milling Industry (Regulation) Act and therefore the police, having had no authorisation by the concerned authority to investigate into the alleged offence as provided under Section 15 of the Act, could not have investigated and moved the Court in the matter and therefore Court also could not have taken cognizance of that offence on the basis of the charge-sheet placed by them. This line of argument appears to

have appealed to the Special Judge and he observes in his order that the position of law referred to by the Counsel for the accused was correct. However, his order discharging the accused cannot be said to be the result of that fact only. In the end before passing the final order he observes as under:

'Hence no charge-sheet can be filed against the accused by the police and the charge-sheet docs not show what order that accused had contravened. In the result, I proceed to pass the following order.

ORDER

The accused are discharged.'

5. It is clear from the above that the Special Judge himself was not clear in his mind as to what the charge or the accusation was against the accused. This case has also other peculiar features. As is well-known, when a complaint or a charge-sheet is filed in Court, the Court takes cognizance not of the accused, but of the offence or offences. Any violation of an order issued under Section 3 of the Act is made punishable under Section 7 of that Act. Before issuing process to the accused, the Court taking cognizance of the offence will have to make itself clear, not merely from the charge-sheet but also from the papers placed along with the charge-sheet, to answer what offences the Court was requiring the presence of the accused. My perusal of the papers of the Court below does not show that the Special Judge had applied his mind to this aspect of the case at all. He appears to have dealt with this matter in a very casual manner. He had called upon these accused by the notices he had issued to answer to a charge under Section 3 r/w Section 7 of the Act. This is as vague as it can be.

6. The Investigating Officer himself was not clear as to what offence or offences these accused had committed. The vague allegation in the charge sheet is that these persons had violated Sections 3 and 7 of the Essential Commodities Act. In the F.I.R. he had earlier sent to the Court of the J.M.F.C., Hospet, the allegation of the Investigating Officer was that these accused had contravened not merely the Rice Milling Industry (Regulation) Act, but also clauses-3(l)(a), (b) (c) & (d) of the Karnataka Food Grains (Wholesale Dealers Licensing) Order, 1964. In the

panchanama he had prepared after seizure of the stock in the rice mill, that appears to be his case. After the seizure of the food-grains he had also placed the same before the Deputy Commissioner, Bellary District, Bellary, to deal with the same under Section 6A of the Act. The Deputy Commissioner, after an enquiry, had confiscated the same and that order appears to have been stayed by the State Government. In that connection the Deputy Commissioner had issued an endorsement to the Investigating Officer in this case and that finds a place in the records. The preamble to that order containing the brief facts of the case shows that the accused had been proceeded against for having violated the provisions of the Karnataka Food-grains (Declaration of Stock) Order, 1967. The confusion does not end there. Even in the Revision Petition presented to this Court challenging the order of the Court below what is mentioned is that the proceeding initiated against the accused in the Court below was for contravening the provisions of the Karnataka Food Grains (Requisition of Stocks) Order, 1967.

7. This is the unfortunate state of affairs in this proceeding. Neither the Investigating Officer nor the Special Judge nor even the State which now wants to set straight the record is clear as to what the accusation against these accused in fact is. The result is either the accused were innocent and have been unnecessarily harassed or that they had in fact violated some order issued under the Essential Commodities Act, but have been allowed to go scot-free. The Public Prosecutor who was in charge of this case in the Court below does not appear to have taken any clear stand in the matter. Possibly he was as confused as the others were.

8. On an examination of the facts of the case it appears to me, as stated above, the Court below had issued process to the accused not being clear what offences it had taken cognizance of in the case against them. If that is so, it may not be in the ends of justice to call upon these accused to face an enquiry once again. Therefore, though the order of the Court below is not sustainable either on facts or in law, I am not inclined to interfere with that order for reasons stated by me above. The State could have successfully challenged that order of discharge only if it was clear in its mind as to why and for what offences it was prosecuting these accused. Since that is very much wanting, any interference in the order of the

Court below at this stage will not be in the ends of justice.

9. Accordingly, the Petition is dismissed.

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