

S. Narayan Vs. Karnataka State Commission for Women

S. Narayan Vs. Karnataka State Commission for Women

SooperKanoon Citation : sooperkanoon.com/386898

Court : Karnataka

Decided On : Oct-01-2008

Reported in : AIR2009Kant76; 2009(2)KCCRSN51; 2009(1)AIRKarR289; AIR2009NOC834; 2009(3)KLJ305

Judge : P.D. Dinakaran, C.J. and; Mohan Shanthanagoudar, J.

Acts : Karnataka State Commission for Women Act, 1995 - Sections 5, 9, 9(1) and 10; [Cinematograph Act, 1952](#); [Code of Civil Procedure \(CPC\) , 1908](#)

Appeal No. : W.A. No. 1532 of 2008

Appellant : S. Narayan

Respondent : Karnataka State Commission for Women

Advocate for Def. : B. Veerappa, Govt. Adv.

Advocate for Pet/Ap. : M.S. Rajendra Prasad, Sr. Counsel for; Rajendra Prasad, Associates

Disposition : Appeal dismissed

Judgement :

P.D. Dinakaran, C.J.

1. The unsuccessful writ petitioner-appellant has preferred this appeal against the order dated 18-9-2008 in Writ Petition No. 16419/2007, wherein the learned single Judge has disposed of the writ petition reserving liberty to the writ petitioner to file his reply to the notice dated 21-9-2007 issued by the respondent, within four weeks and further directed the respondent to receive the reply/objections filed by the Appellant-writ petitioner and to consider the same and pass appropriate orders in accordance with law.

2.1 Appellant-Sri S. Narayan claims to be a noted Kannada Film Producer and Director. He had produced a kannada feature film 'Cheluvina Chittara' which has completed 100 days of its run in all 37 centres where it has been released. It is alleged that a complaint/petition was filed by N.V. Venkataramaniah and others, Puttadasa Road, Kanakapura town, dated 8-9-2007 before the President, Karnataka State Commission for Women inter alia stating that the heroine of the film-Kum. Amoolya, who is aged 14/15 years studying in 9th standard was made to act in the film with the hero Ganesh, who is double the age of the heroine, by wearing uniform and school bag in front of the school with other girls and in their presence, doing certain acts which are not in good taste and no account of this kind of behaviour, school teachers and others are looking at the young girls studying in the schools in a bad manner and misusing such young girls has become very common; it is also stated that when gents are wearing full dress, the young girls are made to act wearing half dress etc. It is also further stated that the Film Chambers of Commerce and Censor Board should take appropriate action before releasing such movies and in case of failure to take action, the Women Association is responsible for the same and it is answerable to a Court of Law.

2.2 Based on the said complaint dated 8-9-2007, the Respondent-Commission issued Notice dated 21-9-2007 under the provisions of the Karnataka State Commission for Women Act, 1995 (for short, the Act) to the appellant directing him to appear in person before the Commission on 29-9-2007 for hearing on the said complaint. Aggrieved by the said notice dated 21-9-2007, the appellant-writ petitioner preferred Writ Petition No. 16419/2007 before this Court seeking to quash the same.

3. The learned single Judge after careful perusal of the grounds urged by the writ petitioner and the stand taken on behalf of the Commission, observing that it is only a show-cause notice and the appellant-petitioner instead of replying or showing cause to the said notice has rushed to the Court, disposed of the writ petition by order dated 18-9-2008, reserving liberty to the petitioner to submit his reply to the show-cause notice issued by the respondent, within a period of 4 weeks from the date of receipt of the copy of the order. Respondent was also directed to receive the reply to be filed by the appellant-petitioner and consider the same and pass appropriate orders, in accordance with law.

4. Aggrieved by the said order, the Appellant has come up in this appeal.

5. Mr. Rajendra Prasad, learned senior counsel for the appellant-writ petitioner contends that it is a pseudonymous complaint given by N.V. Venkataramanaiah and others without their signature and address and based on such complaint, the Commission could not have issued notice to the appellant to appear for the inquiry; that the film was released only after the Censor Board of Film Certification approved the film and granted 'U' Certificate for universal unrestricted public exhibition and of the 5 members of the panel of Censor Board, three were women and all of them having viewed the film has approved and released the film for public view and if there were any obscene or objectionable scenes as to the dress or acting or behaviour of the characters in the film, especially the heroine, necessarily the Censor Board would have ordered for cut/s of any portion/s of the film; that the appellant is a highly renowned Director and producer of Kannada films, a Writer; and a well-versed lyricist. He has produced good number of films and many of them have bagged, awards; that, even the present film 'Cheluvjina Chittara' has run for more than. 100days in 37 centres all over the State, and1 created a record in the film industry; that the appellant is a man with respect for women, and, projects and depicts women in his films in high esteem and has lot of concern for the women in the society; that the commission which is now sought to enquire into the matter is virtually sitting in appeal over the decision of the Censor Board which is an authority created under the Central Statute; that the notice issued under Section 5 of the Act is without jurisdiction and authority of the Commission as envisaged under Section 9 of the Act.

5.1. In support of the contention that when once a Statutory Authority under the [Cinematograph Act, 1952](#) has issued a certificate for exhibition of the film, the Respondent-Commission has no authority to issue notice to the appellant, Mr. Rajendra Prasad, learned senior counsel places reliance on the following rulings of the Supreme Court:

(i) K.A. Abbas v. Union of India and Anr. : [1971]2SCR446 ;

(ii) Raj Kapoor v. Laxman : 1980 CriLJ436 ;

(iii) S. Rangarajan v. P. Jagajivan Ram and Ors. : [1989]2SCR204 ;

(iv) Bobby Art International v. Om Pal Singh Hoon and Ors. : AIR 1996 SC1846 .

6. The learned Government Advocate reiterated the contentions that were urged before the learned single Judge.

7. We have given our careful consideration to the submissions made by the learned Counsel on either side.

8.1 It is clear from the provisions of the Act that the Commission has got exclusive power to look into the complaints and to take suo motu action of matters relating thereto deprivation of women's right. Section 9(1)(f) of the Act empowers the Commission to look into the complaints and to take suo motu action of matters relating to:

(i) deprivation of women's rights;

(ii) non-implementation of laws enacted to provide protection to women and also to achieve the objective of equality and development;

(iii) non-compliance, pf policy decisions, guidelines or instructions aimed at mitigating hardships and ensuring welfare and providing relief to women and take up the issues arising out of such matters with appropriate authorities.

8.2 Further, Section 10 of the Act reads thus:

10. Powers of the Commission : The Commission shall, while investigating any matter for the purposes of this Act, have all the powers of a Civil Court under Civil Procedure Code, 1908 (Central Act 5 of 1908) in trying a suit and in particular in respect of the following matters namely:

- (a) summoning and enforcing the attendance of any person from any part of the State and examining him on oath;
- (b) requiring the discovery and production of any documents;
- (c) receiving evidence on affidavits;
- (d) requisitioning or summoning any public records or copy thereof from any Court of public office;
- (e) issuing commission for the examination of witnesses and documents; and
- (f) any other matter which may be prescribed.

8.3 Pursuant to the aforesaid provisions of the Act, the Commission, acting upon the complaint filed by Venkataramanaiah and others, has issued notice to the appellant to appear before it for personal hearing. If the Appellant-writ petitioner has any grievance or objections against the notice, the only option for him is to appear before the Commission and file his objections, instead of rushing to this Court.

8.4 The Supreme Court in the case of Special Director and Anr. v. Ghulam Ghouse and Anr. reported in : 2004(164)ELT141(SC) has held thus:

5. This Court in a large number of cases has deprecated the practice of the High Courts entertaining writ petitions questioning legality of the show-cause notices stalling enquiries as proposed and retarding investigative process to find actual facts with the participation and in the presence of the parties. Unless the High Court is satisfied that the show cause notice was totally nonest in the eye of law for absolute want of jurisdiction of the authority to even investigate into facts, writ petitions should not be entertained for the mere asking and as a matter of routine and the writ petitioner should invariably be directed to respond to the show cause

notice and take all stands highlighted in the writ petition. Whether the show cause notice was founded on any legal premises is a jurisdictional issue which can even be urged by the recipient of the notice and such issues also can be adjudicated by the authority issuing the very notice initially, before the aggrieved could approach the Court.

8.5 In the instant case, admittedly, the appellant has not responded to the show cause notice and filed his objections, but straightway has approached this Court in a writ petition. Therefore, without going to the merits of the case, in our considered opinion, the learned single¹ judge has rightly dismissed the writ petition holding the same as premature. Accordingly, finding on merit, we dismiss the writ appeal.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com