

(1998) 07 KAR CK 0035
In the Karnataka High Court
Case No : Criminal Petition No. 1647 of 1998

A.K. Verma

APPELLANT

Vs

State

RESPONDENT

Date of Decision : 22-07-1998

Acts Referred:

Constitution of India, 1950 — Article 12

Criminal Procedure Code, 1973 (CrPC) — Section 197, 482

Citation : (1999) 1 ALT(Cri) 281 : (1999) 95 CompCas 26 : (1999) CriLJ 1327 : (1998) 5 KarLJ 671 : (1999) 3 RCR(Criminal) 167

Hon'ble Judges : M.P. Chinnappa, J

Bench : Single Bench

Advocate : Sri K. Krishnappa, for the Appellant; Sri Taranath Shetty, Central Government Standing Counsel, for the Respondent

Judgement

1. This petition is filed u/s 482, Cr. P.C. for quashing the order passed by the 21st Additional City Civil and Sessions Judge and Special Judge for CBI case, Bangalore, holding that the charge-sheet filed by the CBI without sanction to prosecute the accused is proper and legal and that there are sufficient materials to frame charge against the accused persons.

2. The learned Counsel for the petitioner vehemently argued that the petitioner is a former bank Manager of State Bank of Bikaner and Jaipur which is a Nationalised Bank and it is a Government undertaking and no prosecution would lie against him as contemplated u/s 197(1), Cr. P.C. This contention was raised by the learned Counsel before the Court below and the Court below has considered it in detail and has held that no sanction is necessary. It is also held by their Lordships of the Supreme Court in a decision in Mohd. Hadi Raja Vs. State of Bihar and Another, :

"On the plain language of Section 197 of the Code of Criminal Procedure, the protection by way of sanction is not available to the officers of the public undertaking because being a juridical person and a distinct legal entity such

instrumentality stands on a different footing than the Government departments. The Legislature, in its wisdom, did not think it necessary to expressly include the officers of such instrumentality or the Government Company for affording protection by way of sanction u/s 197, Cr. P.C. If the legislature had intended to include officers of instrumentality or agency for bringing such officers under the protective umbrella of Section 197, Cr. P.C., it would have done so expressly. Therefore, it will not be just and proper to bring such persons within the ambit of Section 197 by liberally construing the provisions of Section 197. Such exercise of liberal construction will not be confined to the permissible limit of interpretation of a statute by a Court of law but will amount to legislation by Court. The protection by way of sanction u/s 197 of the Code of Criminal Procedure is not applicable to the officers of Government Companies or the public undertakings are "State" within the meaning of Article 12 of the Constitution".

In view of this decision and taking into consideration that the petitioner also was working in a public undertaking he is not protected u/s 197, Cr. P.C.

For the foregoing reasons, I hold that this petition has no merit and accordingly, it is dismissed. However, liberty is reserved to the petitioner to raise this contention if he is so advised at the stage of trial.