
(2007) 03 KAR CK 0015
In the Karnataka High Court
Case No : Writ Petition No. 6685 of 2006

Basappa Gubber

APPELLANT

Vs

The Chief Manager and Disciplinary Authority Corporation
Bank

RESPONDENT

Date of Decision : 02-03-2007

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2007) 3 KCCR 150 SN

Hon'ble Judges : N.K. Patil, J

Bench : Single Bench

Advocate : C.H. Jadhav, for the Appellant; Pradeep S. Sawkar Advocate for Sundaraswamy Ramdas and Anand, for the Respondent

Final Decision : Dismissed

Judgement

N.K. Patil, J.—The petitioner, questioning the legality and validity of the charge-sheet dated 24.1.2006 issued by the respondent in No. PAD:DISC:340:04:2508:2005-06, vide Annexure-F and all further proceedings, in pursuance of the same as unsustainable, has presented this writ petition

2. It is not in dispute that, petitioner was appointed as guardian in respect of minor children Manjula and Vijayakumar, who are the children of his sister. On account of love affair developed while studying 6th standard by Manjula the same was ended in marriage with one Sri. Kotreshi. It is the further case of the petitioner that, he has availed loan on the deposit of Smt. Manjula. Smt. Manjula on attaining the age of majority has complained with the Chairman of the respondent-Bank that, petitioner has misappropriated the amount in deposit. On the basis of the complaint given by Smt. Manjula after attaining majority, respondent-Bank has issued show-cause notice to the petitioner as to why proceedings should not be initiated against him. In pursuance of the same, petitioner has submitted his reply stating that he has not committed any misconduct and the allegations does not constitute misconduct warranting domestic

enquiry. Without considering the reply filed by petitioner, respondent-Bank has issued charge-sheet to the petitioner. The charges levelled against petitioner is as vague as vagueness could be and therefore respondent-Bank cannot proceed with the domestic enquiry on the basis of the vague charges. As the; petitioner has not committed any misconduct as alleged by the respondent, the domestic enquiry is misconceived and it is liable to be set aside. Having regard to these backgrounds, petitioner has present this writ petition, assailing the proceedings initiated against him.

3. I have heard learned Counsel appearing for petitioner and learned Counsel appearing for respondent-Bank.

4. Learned Counsel appearing for respondent-Bank at the outset submitted that, the writ petition filed by petitioner is liable to be dismissed as not maintainable without considering any merits and demerits of this case. To substantiate his submission, he placed heavy reliance on the judgment of the Apex Court in the case of Union of India and Anr. v. Kunlsetty Satyanarayana reported in 2007 AIR SCW 607, and submitted that the writ petition filed by the petitioner is liable to be dismissed as held by the Apex Court in Paragraphs-13 and 14 of its judgment that, "a mere charge-sheet or show-cause notice does not give rise to any cause of action, because it does not amount to an adverse order which affects the rights of any party unless the same has been issued by a person having no jurisdiction to do so". Further, he submitted that, a writ jurisdiction is discretionary jurisdiction and hence such discretion under Article 226 should not ordinarily be exercised by quashing show-cause notice or charge-sheet.

5. In the light of the facts and circumstances of the case as stated above, in view of the submission made by learned Counsel appearing for respondent-Bank, and after careful perusal of the judgment of the Apex Court as referred above, there is no dispute regarding the well settled law laid down by the Apex Court in the case of Union of India and Anr. v. Kunlsetty Satyanarayana reported In AIR 2007 SCW 607, wherein the Apex Court by referring series of its decisions in AIR 1995 SCW 4710 : AIR 2004 SCW 416 and AIR 2000 SCW 4046 has held that ordinarily no writ lies against a charge-sheet or show-cause notice. Paragraph-14 of the aforesaid judgment reads thus:

The reason why ordinarily a writ petition should not be entertained against a mere show -cause notice or charge-sheet is that at that stage the writ petition may be held to be premature. A mere charge-sheet or show -cause notice does not give rise to any cause of action, because it does not amount to an adverse order which affects the rights of an party unless the same has been issued by a person having no jurisdiction to do so. It is quite possible that after considering the reply to the show-cause notice or after holding an enquiry the authority concerned may drop the proceedings and or hold that the charges are not established. It is well settled that a writ lies when some right of any party is infringed. A mere show-cause notice or charge-sheet does not infringe the right of any one. It is only when a final order imposing some punishment or otherwise

adversely affecting a party is passed, that the said party can be said to have any grievance.

Further, the Apex Court has held that:

Writ jurisdiction is discretionary jurisdiction and hence such discretion under Article 226 should not ordinarily be exercised by quashing the show-cause notice or charge-sheet.

6. If the ratio of the above law laid down by the Apex Court is applied to the instant case, the relief sought for by the petitioner in this writ petition cannot be maintainable and it is liable to be dismissed as misconceived.

7. For yet another reason, the writ petition filed by petitioner is liable to be dismissed at threshold, as rightly pointed out by the learned Counsel appearing for respondent-Bank is that, petitioner has participated in the enquiry proceedings before the Enquiry Officer, he has (sic) his oral and documentary evidence, enquiry is completed during the pendency of this writ petition and enquiry report is yet to be submitted by the Enquiry Officer. if that is so, the question of entertaining this writ petition, at this stage, is not desirable or justifiable.

8. Having regard to the facts and circumstances of the case as stated above, the writ petition filed by petitioner is dismissed as misconceived.