
(2021) 04 KAR CK 0021
In the Karnataka High Court
Case No : Criminal Petition No. 26 Of 2021

B.R. Prabhakara

APPELLANT

Vs

State Of Karnataka & Others

RESPONDENT

Date of Decision : 19-04-2021

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 200, 482

Indian Penal Code, 1860 — Section 420, 462, 465, 466, 467, 468, 470, 471, 475, 476

Citation : (2021) 04 KAR CK 0021

Hon'ble Judges : H.P. Sandesh, J

Bench : Single Bench

Advocate : T. Rajaram, H.R. Showri, B.R. Sreenath

Final Decision : Allowed

Judgement

H.P. Sandesh, J

1. This petition is filed under Section 482 of Cr.P.C. praying this Court to quash the charge-sheet in C.C.No.838/2019 in Crime No.121/2015 on the

file of the Additional Civil Judge and JMFC, Chintamani.

2. The factual matrix of the case is that the bank had lodged a private complaint against one Sri Nallappa invoking Section 200 of Cr.P.C. for the

offences punishable under Sections 420, 462, 465, 466, 467, 468, 470, 471, 475 and 476 of IPC and the matter was referred for investigation. The

police after the investigation have filed the charge-sheet and while filing the charge-sheet, arraigned the petitioner as accused No.2, who gave legal

opinion in favour of the bank being an advocate of bank panel.

3. The learned counsel for the petitioner would vehemently contend that the bank while lodging the complaint has not arraigned the petitioner as

accused. There are no specific allegations against the petitioner and he has been falsely implicated and the petitioner has discharged his duty in giving

the opinion. While giving the legal opinion with regard to saguvali chit, a note was made and when such being the facts and circumstances of the case,

there cannot be any criminal prosecution against the petitioner.

4. Per contra, the learned High Court Government Pleader appearing for respondent No.1 " State would contend that opinion is given by the

petitioner in favour of the bank and specific allegations are made against only Sri Nallappa and not disputes the fact that there was a reference in the

opinion that with regard to the loss of saguvali chit an affidavit is filed.

5. The learned counsel for respondent No.2 bank also fairly submits that allegation is made against one Nallappa and not against the petitioner.

6. Having heard the learned counsel for the petitioner, the learned High Court Government Pleader appearing for respondent No.1 and the learned

counsel for respondent No.2 and the material available on record, the Investigating Officer has not collected any material with regard to the

involvement of this petitioner in committing the crime. In the absence of any material before this Court that this petitioner, who is an advocate has

indulged in criminal activity, there cannot be any criminal prosecution against the petitioner. The petitioner has discharged his duty by giving opinion

and in the opinion also he made the reference with regard to the affidavit given by the party in connection with loss of saguvali chit. When such being

the case, when there is no grievance on the part of the bank with regard to furnishing of the opinion, there cannot be any criminal prosecution against

the petitioner. Hence, it is a fit case to exercise the power under Section 482 of Cr.P.C. to quash the proceedings initiated against the petitioner or

otherwise it amounts to miscarriage of justice.

7. In view of the discussions made above, I pass the following:

ORDER

(i) The petition is allowed.

(ii) The proceedings initiated against the petitioner in C.C.No.838/2019 is hereby quashed.