

(1997) 05 KAR CK 0006

In the Karnataka High Court

Case No : Writ Petition No's. 31973 to 31978 and 31023 of 1996

Dr. S.M. Kalligudd and Others

APPELLANT

Vs

State of Karnataka and Others

RESPONDENT

Date of Decision : 28-05-1997

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 154, 156, 2, 2 (s)
Karnataka Police Act, 1963 — Section 113, 114, 54, 55, 56
Penal Code, 1860 (IPC) — Section 109, 120 B, 420, 465, 466

Citation : (1998) 1 ALT(Cri) 123 : (1998) 1 KarLJ 252

Hon'ble Judges : G.C. Bharuka, J

Bench : Single Bench

Advocate : Sri R.N. Narasimha Murthy, Sri B.B. Bajentri, K.R. Srinivasan, Sri Jairaj and Sri Dhanraj, for the Appellant; Sri S. Vijaya Shankar, Advocate-General and Sri S.R. Bannurmah, State Public Prosecutor, for the Respondent

Judgement

1. The petitioners herein are employees under the respondent-Corporation of the City of Bangalore. According to them, they are working as Medical Officer, Assistant Commissioner in-charge of Administration, First Division Clerk, Assistant Revenue Officer, Second Division Assistant and the Deputy Commissioner (West), respectively. These petitioners have been made accused in Crime Nos. 3 of 1996, 4 of 1996, 7 of 1996, 8 of 1996, 9 of 1996 and 10 of 1996, which have been registered by the Bangalore Metropolitan Task Force (in short "the Task Force"), under Sections 420, 465, 120B and 109 of the Indian Penal Code (in short "IPC"). The copies of the First Information Reports (in short "FIR") have been filed as Annexures-A-1 to A-6. From the facts disclosed in the FIR, the allegations transpiring against the petitioners are that they in conspiracy with their co-accused have given appointments in the Bangalore City Corporation on the basis of false and forged documents for mutual wrongful gains. The present writ petition has been filed by the petitioners for quashing of the said police cases on the ground that the Task Force is constituted under Notification No. 800 dated 27-5-1996 (Annexure-H) has no competence under the provisions

of the Code of Criminal Procedure, 1973 (in short "Cr.P.C."), either to register the cases in question against the petitioners and/or to proceed with the investigation thereof.

2. The above referred Notification bearing No. 800, dated 27-5-1996 (Annexure-H), issued by the State Government in exercise of the powers conferred by clause (s) of Section 2 of Cr. P.C., reads as under:--

"NOTIFICATION

No. HD 231 PEG 95, Bangalore, dated 27th May, 1996

In exercise of the powers conferred by clause (s) of Section 2 of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), the Government of Karnataka hereby declares that with effect from the date of publication of this notification in the Official Gazette the place specified in column (1) of the Schedule below as police station for the area specified in the corresponding entry in column (2) thereof, in respect of offence specified thereunder.

SCHEDULE

Name of the police station

Areas falling within the jurisdiction of the police station

(1)

(2)

Office of the Deputy Inspector General of Police, Bangalore Metropolitan Task Force, Bangalore

Bangalore Metropolitan area in respect of the offences specified below.

The Bangalore Metropolitan Task Force specified in column (1) of the Schedule shall have the jurisdiction in respect of the offences under the Karnataka Municipal Corporation Act, 1976, the Bangalore Development Authority Act, 1976, the Karnataka Municipalities Act, 1964, the Bangalore Water Supply and Sewerage Act, 1964, the Karnataka Slum Areas (Improvement and Clearance) Act, 1973 and read with Chapter II, Section 34, Indian Penal Code along with relevant main offence, Chapter V under Sections 107 to 120, Indian Penal Code, Chapter VI u/s 120B of Indian Penal Code along with relevant main offence, Chapter VIII under Sections 143, 144, 145, 147 to 151, Indian Penal Code, Chapter XI under Sections 217 and 218 of Indian Penal Code, Chapter XVI under Sections 332, 333 and 353 of Indian Penal Code, Chapter XVII under Sections 379, 403, 406, 409, 417, 418, 419, 420, 423, 424, 426, 427, 431, 432, 434, 435, 436, 447, 448, 455, 456 and 457 of Indian Penal Code, Chapter XVIII under Sections 456, 466, 467, 468, 471, 472, 473, 474, 475, 476, 477, 477A of Indian Penal Code, and Sections 54, 55, 56, 94, 98, 113 and 114 of the Karnataka Police Act, 1963".

3. Clause (s) of Section 2 of Criminal Procedure Code under which the above notification issued by the State Government "Police Station" to mean any post or place declared generally or specially by the State Government to be a police station and includes any local area specified by the Government in this behalf. If construed in the context of this definition what prima facie transpires is that the State Government has under the above notification at Annexure-H has declared the Office of the Deputy Inspector General of Police, Bangalore Metropolitan Task Force, to be a police station. But this police station will be so in respect of the offences specified in the notification which are suspected to have been committed within the Bangalore Metropolitan Area.

4. It is in the above context that Sri Narasimha Murthy, the learned Senior Advocate appearing for the petitioner, has raised the ground that the offences alleged to have been committed by the petitioners being only of Indian Penal Code and not being falling under Karnataka Municipal Corporations Act, 1976 (in short the "Corporation Act") or both under the said Act and Indian Penal Code, the Officer-in-charge of the police station constituted under the impugned notification, had no jurisdiction to either register the police cases in question or to go ahead with investigations thereof. On the other hand, the learned Advocate-General appearing for the respondents has submitted that, once a post or place is declared to be police station within the meaning of clause (s) of Section 2 of Criminal Procedure Code, then its jurisdiction cannot be held as limited into any geographical area or the nature of offence alleged to have been committed by the accused persons.

5. The Task Force, has been created by the State Government under its order dated 19-3-1996, which has been placed as Annexure-F to these writ petitions. The material part of the said order reads as under:--

"ORDER

No. UDD 247 HNU 95, Bangalore, dated 19th March, 1996

Sanction is accorded to constitute a force to be called the Bangalore Metropolitan Task Force (BMTF).

A Deputy Inspector General of Police shall be the head of the task force with the designation "The Deputy Inspector General of Police, Bangalore Metropolitan Task Force". The command, supervision and administration shall vest in the Deputy Inspector General of Police, Task Force.

The functions of the task force shall be as follows, namely.-

(i) Better protection of the property belonging to the Government, the Bangalore City Corporation, the Bangalore Development Authority, the Bangalore Water Supply and Sewerage Board, the City Municipal Councils and the Slum Clearance Board in Bangalore Metropolitan Area.

(ii) The detection of commission or any design to commit any offence, of

investigation and prosecution of such offence relating to unauthorised occupation of any land which is an offence under the following enactments:

- (a) The Karnataka Municipal Corporations Act, 1976;
- (b) The Bangalore Development Authority Act, 1976;
- (c) The Karnataka Municipalities Act, 1964;
- (d) The Bangalore Water Supply and Sewerage Act, 1964;
- (e) The Karnataka Slum Areas (Improvement and Clearance) Act, 1973.

The Bangalore Metropolitan Task Force shall consist of the officers mentioned in Annexure-I.

Every person employed in the Bangalore City Corporation, the Bangalore Development Authority or any other local authority within the Bangalore Metropolitan Area shall forthwith communicate to the task force any information which he may possess respecting commission or attempt to commit any offence by any person under the Karnataka Municipal Corporations Act, 1976, the Bangalore Development Authority Act, 1976, the Karnataka Municipalities Act, 1964 and Karnataka Slum Area (Improvement and Clearance) Act, 1973".

6. In the aforesaid background, now let me attend to the controversies raised at the Bar. So far the point of view expressed by Sri Narasimha Murthy, learned Senior Counsel appearing for the petitioner is concerned, just plain reading of the notification without any further aid or argument substantiates the same. But if one has to accept the construction sought to be put on the notification as suggested by learned Advocate-General it needs a closer scrutiny of the scheme contained in the Criminal Procedure Code. An employment of interpretational tools, since the view so expressed if it is to be accepted will require much tailoring of the notification.

7. To start with, I will once again advert to the definition of "police station" as spelled in clause (s) of Section 2 of the Criminal Procedure Code. This definition of police station as noticed above contains two crucial expressions, namely, "any post or place" and "declared generally or specially". Interpretations of these expressions have become necessary, because according to the learned Advocate-General, the word "post" used in the definition of "police station" will mean the position in service of a person and therefore according to him, since the post of D.I.G., Task Force, had been declared to be police station its powers of investigations in respect of each and every offence cannot be curtailed with reference to the expression declared generally and specially, his submission is that the word "specially" cannot be construed to have any significance for ascertaining the general powers of the police officers to investigate the offences of all types.

8. The word "post" as used in English language has various meanings, out of which a particular meaning has to be ascertained keeping in view the context in

which the word has been used. On reference to Webster's New Collegiate Dictionary, one can easily find that the word "post" inter alia, means a piece (as of timber or metal) fixed firmly in an upright position, a pole or stake set up to mark or indicate something, to publish, announce or advertise by courier, the place at which a soldier is stationed, specially a sentry's beat or station, the place at which a body of troops is stationed, to assign to a unit or location (as in the military or civil service).

9. Therefore, the word "post" can mean the position of a person in service or the place at which the police officers) is/are stationed.

10. In the case of P.R. Nayak Vs. Union of India (UOI), , the Supreme Court had an occasion of construing the word "post" in the context of Civil Service Regulations. There the word has been used with the word "office". Keeping this aspect in view, the Supreme Court has held that "the word "post" with its previous counterpart the "office" means the position in service". Applying the same reasoning, since, the word "post" in the definition of "police station" has been used with words/expressions like "place, a local area", therefore, by applying the rule *noscitur a sociis* (the meaning of a word is to be judged by the company it keeps), it has to be held that the word "post" used in the definition of "police station" could only mean "a place where police officers are stationed". Assignment of any other meaning to the word "post" in the context it has been used in the definition of police station would lead only to an absurd meaning. I say so because, if the post of DIG is treated as police station, then there cannot be any Officer-in-charge thereof for the purpose of Sections 154 and 156 of the Criminal Procedure Code.

11. So far the words general or special are concerned, these are fairly formal words of English language. The dictionary meaning of the word "General" is "concerned or dealing with universal rather than particular aspects". The word "special" means that "design for a particular purpose or occasion".

12. Under Criminal Procedure Code, the police stations are created to enable the Officer-in-charge thereof, to register the information relating to the commission of cognizable offences and to investigate the same in order to file its report before the Magistrate competent with the cognizance so that the persons found accused of the offence are appropriately punished. Therefore, police stations can be created where cases can be registered without any barrier relating to territory or the place of occurrence as also the nature of offence alleged to have been committed. Such police stations will be of general nature. But the State Government in its wisdom and for any good reason can create a police station for a defined reason, i.e., for registering a case committed within a particular geographical limit and/or in relation to commission of offences of particular nature or offences committed by or against a particular class or persons or property and so on and so forth. The police station so created will be the police station having special jurisdiction.

13. In the present case under the notification dated 27-5-1996 (Annexure-H), the office of the Deputy Inspector General of Police, Bangalore Metropolitan Task Force, Bangalore, has been declared to be a Police Station with a territorial jurisdiction over Bangalore Metropolitan Area and in respect of the offences committed under the Special Acts like Karnataka Municipal Corporations Act, 1976, the Bangalore Development Authority Act, 1976, the Karnataka Municipalities Act, 1964, the Bangalore Water Supply and Sewerage Act, 1964, the Karnataka Slum Areas (Improvement and Clearance) Act, 1973 and read with various offences mentioned in the Indian Penal Code and the Karnataka Police Act. Therefore, on a plain reading of the notification it is quite clear that the Officer-in-charge of the said police station can register a case and proceed with the investigation of case if the facts contained in the F.I.R. disclose the offences under the said Special Acts read with or without those under the Indian Penal Code and the Karnataka Police Act. Consequently, it has to be held that if the F.I.R. discloses commission of offences only under the Indian Penal Code or under the Karnataka Police Act, then it will not be competent on the part of the Officer-in-charge of the police station constituted under Annexure-H to proceed with the investigation thereof.

14. Learned Advocate General appearing for the respondents has heavily relied on the Division Bench Judgment of this Court in the case of C.M. Prasad and Others v State of Karnataka and Others. I have carefully gone through the facts of the case and the pronouncements made therein. I am afraid the said judgment does not touch upon the aspect of law involved here in this case. Therefore, I do not propose to discuss the same in any greater detail. Suffice it is to say that in that case no police station was declared in terms of Section 2(s) of the Criminal Procedure Code, restricting its jurisdiction to a specified geographical area and certain specified offences only and as such is of no help in eliciting the answer to the questions posed in the present case.

15. For the aforesaid reasons I am constrained to hold that since in the present case even as per the respondents no offences have been alleged against the petitioners under the Special Acts referred to above, therefore, it is not competent on the part of the 4th respondent to continue with the investigation against the petitioners. As such he is directed to refer the case pending with him to the Officer-in-charge of the jurisdictional police station for further investigation. The writ petitions are accordingly allowed to the said extent only. No costs.