

(1996) 07 KAR CK 0019
In the Karnataka High Court
Case No : Writ Petition No. 11021 of 1990

Equipment

APPELLANT

Vs

G.M., Bangalore Telephones and Others

RESPONDENT

Date of Decision : 15-07-1996

Acts Referred:

Citation : (1997) 2 CivCC 695 : (1997) ILR (Kar) 1005

Hon'ble Judges : J. Eshwara Prasad, J

Bench : Single Bench

Advocate : A.S. Bopanna, for the Appellant; P. Jayalaxmi, CGSC, for the Respondent

Final Decision : Allowed

Judgement

J. Eshwara Prasad, J

1. The petitioner-firm is aggrieved by the action of the respondent in disconnecting the telephone bearing No. 368269 owned by the petitioner-firm, for alleged dues relating to telephone No. 341265 belonging to the mother of one of the partners of the petitioner-firm.

2. The Learned Counsel for the petitioner submits that the telephone belonging to the petitioner-firm cannot be disconnected as there was no dues on the said telephone. He further submits that even if there are any dues relating to the telephone belonging to the mother of one of the partners, the same cannot be taken to be an amount due from the petitioner-firm and the telephone belonging to the petitioner-firm cannot be disconnected.

3. Learned standing counsel for the respondent relying on, BHAGWANJI DEVRAJ v. UNION OF INDIA (1973) 16 Guj. LR 357 submitted that if there are any dues relating to the telephone belonging to a firm, the telephone belonging to one of the partners of the firm can be disconnected. In the case on hand, there are no dues of the petitioner-firm relating to No. 368269 which was disconnected. The alleged dues relate to the mother of one of the partners of the firm which cannot

be passed on to the firm. Firstly the mother is not one of the partners and her dues cannot be attributed to the firm. Secondly, the partner himself is not in arrears of any telephone charges. Therefore, it is clear that the telephone of the petitioner-firm cannot be disconnected for the dues relating to the telephone belonging to the mother of one of the partners. The decision relied on by the Learned Counsel has no application to the facts and circumstances of this case.

4. In *Y. Pridhvi Kumar Vs. The General Manager, Telecom District, Hyderabad*, it is held that the telephone of a son cannot be disconnected for the default of the payment of arrears due by his mother relating to her own telephone. I am in entire agreement with the learned Judge, in holding that no liability can be fastened on the petitioner-firm for the default committed by the mother of one of the partners of the firm. There is neither statutory sanction nor the rules framed under the statute to empower the authorities to disconnect the telephone of the petitioner-firm for the default committed by the mother of one of the partners.

5. The Writ Petition is accordingly allowed, directing the respondents not to disconnect the telephone No. 368269 for the dues payable for telephone No. 241265 provided that there are no dues relating to telephone No. 368269.