

(2015) 10 KAR CK 0202

In the Karnataka High Court

Case No : Criminal Petition Nos. 100860 and 100798 of 2015

Gururaj Hugar and Others

APPELLANT

Vs

State of Karnataka and Others

RESPONDENT

Date of Decision : 31-10-2015

Acts Referred:

Constitution of India, 1950 — Article 227
Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 149, 177, 323, 332, 353

Citation : (2015) 10 KAR CK 0202

Hon'ble Judges : P.D. Waingankar, J.

Bench : Single Bench

Advocate : Nalina Mayegowda, Advocate, for the Appellant; Shivaprabhu S. Hiremath, AGA, for the Respondent

Final Decision : Allowed

Judgement

P.D. Waingankar, J.—Both these petitions are filed under Section 482 of Cr.P.C. to quash the proceedings initiated against the petitioners in both the petitions in Old Hubli Police Station Crime No. 111/2015 for the offences punishable under Sections 177 , 323 , 332 , 353 , 384 , 419 , 504 , 505 , 506 r/w 149 of IPC pending on the file of JMFC - II Court, Hubli.

2. One Anand Basavanappa Narendra, a police constable attached to Vidyanagar Police Station, Hubli lodged a complaint on 07.06.2015 before the officer-in-charge of old Hubli Police Station. It is alleged in the complaint that he had received credible information that since his superior officers had taken drastic steps to put an end to cricket betting and matka game in the city of Hubli and Dharwad, some of the disgruntled bookies engaged in cricket betting, in collusion with the press reporters were hatching a conspiracy to malign and demoralize the police force in the eye of the general public. When he passed on the said information to Deputy Commissioner of Police, he told him to keep surveillance over such persons representing themselves as bookies ready to give bribe. Since

the complainant was one of the members of the police team constituted for the said purpose, he kept surveillance over such persons. It is further alleged in the complaint that on 27.05.2015 one D.C. Tejas and Suresh Ingalahalli contacted the complainant over his mobile by introducing themselves as Vishu and Prakash Karatgi, cricket bookies and requested the complainant to help them to engage themselves in cricket betting game. They also told him that they would pay the amount as demanded by them. The complainant told both of them to come to Hubli. On 28.05.2015, the said persons Vishu and Prakash Karatgi came in Omni car to Hubli and approached the complainant and one M.D. Kalwad, ASI attached to Vidyanagar Police Station, Hubli and told them that they are ready to pay the amount demanded by them if they help them in cricket betting business. They also expressed their desire to see their superior officers. The complainant and M.D. Kalwad, ASI suspected that they were falsely representing themselves as bookies. Immediately, the complainant flashed the information to the Deputy Commissioner of Police over mobile, who inturn asked the complainant to have conversation with Vishu and Prakash Karatgi and engage them without giving scope for suspicion till his arrival. Thereafter, the complainant and M.D. Kalwad came to know that they were the reporters of some news channel who with the help of bookies are planning to malign and demoralize the police force. They decided to apprehend them with evidence. Further, it is alleged that on 03.06.2015, the complainant and M.D. Kalwad were asked to come to Konkan Hotel on old Hubli road by Vishu and Prakash Karatgi. Accordingly, both the complainant and M.D. Kalwad went to Konkan hotel at about 2.30 p.m. At that time, Vishu and Prakash Karatgi (D.C. Tejas and Suresh Ingalahalli) were consuming liquor. The complainant and M.D. Kalwad were also invited by both of them. When they joined them, they were told that they are the news reporters and that they have videographed and recorded the conversation between DCP Hanumathrai and complainant and M.D. Kalwad and if an amount of Rs. 5,00,000/- is not paid to them, they would telecast the conversation in their Suvarna News channel. The complainant asked them to show their identity card if they are really news reporters. Enraged by the same, both of them abused the complainant and M.D. Kalwad in filthy language and attacked them. At that time, Gururaj Hugar, reporter of Suvarna News channel at Hubli and D.C. Tejas and Suresh Ingalahalli and other two reporters told them that they are cricket bookies and if they help them in cricket betting business they would give them their hafta. When they declined, they were again abused, assaulted and were obstructed in the discharge of their official duties. When the complainant and M.D. Kalwad were about to apprehend and take them to Old Hubli Police Station, another four to five persons barged into the hotel representing themselves as Lokayukta police and told them that they want to take Gururaj Hugar, D.C. Tejas for enquiry. When complainant declined, they also joined hands with Gururaj Hugar and two others and abused the complainant and M.D. Kalwad, gave them life threat and all of them fled away in Omni Car bearing registration No. KA-01-5208 wherein Basavaraj Korwar, suspended DCP, was giving instructions to D.C. Tejas and two others. It was confirmed that Basavaraj Korwar, suspended

DCP, was behind the conspiracy. Even then, the complainant decided not to inform their superior officers about this incident until they get sufficient evidence and till D.C. Tejas and Suresh Ingalahalli were arrested by them.

3. It is alleged that on 04.06.2015 the petitioners did telecast the conversation between the complainant, M.D. Kalwad and suspended DCP in Suvarna News Channel by twisting the facts and thereby complainant and M.D. Kalwad were suspended. The complainant was stunned by the news of his suspension and therefore, he could not give the complaint immediately. Thus, crime came to be registered against the petitioners in Old Hubli Police Station on 07.06.2015. The petitioners in both the petitions who are shown as accused Nos. 1 to 3 have filed these petitions under Section 482 of Cr.P.C. to quash the proceedings in Old Hubli Police Station Crime No. 111/2015 on the ground that the initiation of the proceedings against them is nothing but abuse of process of the court, that even if the entire allegations made out in the complaint are taken as it is, they do not constitute any of the alleged offences, the complaint came to be filed against them as a counter blast to the complaint filed by them against Anand and M.D. Kalwad in Old Hubli Police Station Crime No. 110/2015 wherein this complainant and one M.D. Kalwad, ASI were arrested and were remanded to judicial custody for a period of more than one month. It is further contended that the petitioners have played the role of whistle blower and revealed the corruption by the superior officers of the police department and therefore a protection has to be given to them.

4. I have heard both the learned counsel appearing for the petitioners and learned Additional Government Advocate appearing for the State.

5. The learned counsel appearing for the petitioners in both the petitions has submitted before me that the registration of case against these petitioners in Crime No. 111/2015 of Old Hubli Police Station is nothing but a counter blast to the crime registered against the complainant and M.D. Kalwad in old Crime No. 110/2015 at the instance of petitioner-D.C. Tejas. It is further submitted that these petitioners being the reporters of Suvarna News channel have sincerely made an attempt to reveal the corruption in the police department and the nexus between the top brass of the police department in Hubli-Dharwad and the cricket bookies. Further, it is submitted that the petitioners played the role of whistle blower and therefore they are to be protected by quashing the criminal proceedings initiated against them. Learned counsel placed reliance on the following decisions in support of her arguments:-

"1) Manoj H. Mishra Vs. Union of India and Others,

2) State of Haryana and others Vs. Ch. Bhajan Lal and others, "

6. On the other hand, the learned Additional Government Advocate would submit that on the strength of the complaint lodged by the complainant, a crime to be registered against these petitioners for the aforesaid offences as they being the reporter of a news channel were engaged in extorting money from the

government officials under the threat of telecasting the conversation said to have been recorded by them. Unless the allegations made out in the complaint are investigated, the truth will not come out. It is further submitted that since the allegations are also made against police officials against whom Crime No. 110/2015 came to be registered in the same police station, the investigation of both the crimes has been handed over to CID and because of the stay order granted by the court, the investigation has come to a stand still. It is further submitted that if the proceedings are quashed at this stage, it would tantamount to miscarriage of justice and as such, the learned Government Advocate sought for dismissal of both the petitions.

7. Learned counsel appearing for respondent No. 2/complainant relied upon the following decisions in support of their arguments:-

"1) State of Orissa and Others Vs. Ujjal Kumar Burdhan,

2) The decision of the Supreme Court in Crl. A. No. 747/2010 dated 24.04.2014 in a case of Rajat Prasad v. C.B.I."

8. The scope and ambit of powers of the High Court under Section 482 Cr.P.C. or Article 227 of the Constitution has been enunciated and reiterated by the Supreme Court in a series of decisions and several circumstances under which the High Court can exercise jurisdiction in quashing proceedings have been enumerated. Therefore, I consider it unnecessary to burden the judgment by making reference to all the decisions on the point. It would suffice to state that though the powers possessed by the High Courts under the said provisions are very wide but these should be exercised in appropriate cases, *ex debito justitiae* to do real and substantial justice for the administration of which alone the courts exist. The inherent powers do not confer an arbitrary jurisdiction on the High Court to act according to whim or caprice. The powers have to be exercised sparingly, with circumspection and in the rarest of rare cases, where the court is convinced, on the basis of material on record, that allowing the proceedings to continue would be an abuse of the process of the court or that the ends of justice require that the proceedings ought to be quashed.

9. Having heard the submission made by both the learned counsel and upon perusal of the material on record, it has to be stated that it all started on 02.06.2015. On 02.06.2015, the petitioners who are the reporters of Suvarna News channel, upon receipt of credible information regarding the unholy nexus between the cricket bookies and the police officials at Hubli, these reporters came down from Bengaluru so as to record the conversation between the police officials and the bookies so as to telecast the same in their news channel. While they were in Konkan hotel on Karwar Road for the purpose of conducting sting operation and while they were discussing the matter with one Sanju @ Manjunath Dalbanjan, the money supplier to police personnel derived from cricket betting, the complainant and one M.D. Kalwad the police official barged into Konkan Hotel, abused the reporters and ransacked their equipments such as

TV camera, mike set, mobiles, gold chain, cordless audio mike, R.C. book etc. robbed those articles and went away. Despite request made by the reporters for return of their articles, they did not return and thereby the reporter D.C. Tejas went to Bengaluru and gave a representation to Director General of Police, Bengaluru on 05.06.2015, who inturn transmitted the representation to Commissioner, Hubli and Dharwad. The Commissioner inturn sent it to Old Hubli Police Station and thereby Crime No. 110/2015 came to be registered against Anand Basavanappa Narendra, Police Constable and M.D. Kalwad, ASI on 06.06.2015 at 12.30 p.m. They were arrested and taken to judicial custody. They were also suspended.

10. When things stood thus, the accused in Crime No. 110/2015 lodged a counter complaint on 07.06.2015 against the petitioners, Suvarna T.V. News reporters narrating the incident said to have occurred on 03.06.2015 at 2.00 p.m. in the same hotel wherein complainant and M.D. Kalwad were abused by the petitioners and were obstructed while discharging their duties. When on 02.06.2015, the complainant-Anand Basavanappa Narendra and M.D. Kalwad, ASI barged into the Konkan hotel, ransacked and robbed the valuable articles belonging to the petitioners such as camera, mobile etc., and despite their request they did not return the articles, the petitioners asking the complainant-Anand Basavanappa Narendra and M.D. Kalwad in the same hotel on the next day i.e., on 03.06.2015 and telling them that they recorded the conversation between the complainant, M.D. Kalwad and DCP Hanumanthrai which they would telecast in their TV channel if an amount of Rs. 5 lakh is not paid to them is not only impossible to accept but also impossible to imagine inasmuch as they are inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused/petitioners. Needless to say that it is only when the conversation was telecast in the Suvarna News channel on 04.06.2015, in pursuance of which the complainant-Anand Basavanappa Narendra and M.D. Kalwad were suspended the instant complaint came to be lodged against these petitioners just to wreak the vengeance against the petitioners due to grudge with malafide intention. I have read the allegations made out in the complaint between the lines. Needless to say that the allegations averred in the complaint even if taken at their face value and accepted in its entirety do not constitute an offence alleged demanding either registration of a case or commencement of an investigation. On the face of it they appear to be false. The Court is absolutely conscious that position does not matter, nobody is above law and that the journalist or reporters do not enjoy special privileges. The proceeding initiated against these petitioners is manifestly attended with malafide and the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused/petitioners. Malafides are writ large. Since the main purpose of registration of the crime and intended investigation is tainted with malafide, the continuation of which would tantamount to abuse of the process of the Court. Therefore, this is a fit case to quash the proceeding by exercising inherent powers to do justice. The

proceedings are liable to be quashed.

Accordingly, both the petitions are allowed. The proceedings initiated against the petitioners in both the petitions in Old Hubli Police Station Crime No. 111/2015 are hereby quashed.