

(2013) 01 KAR CK 0145
In the Karnataka High Court
Case No : Criminal Petition No. 16183 of 2012

Hunasavadi Rajan Rao and A.C. Gopal Bhat

APPELLANT

Vs

The State of Karnataka

RESPONDENT

Date of Decision : 04-01-2013

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 407
Penal Code, 1860 (IPC) — Section 499, 501, 502

Citation : (2013) 01 KAR CK 0145

Hon'ble Judges : Mohan Shantanagoudar, J

Bench : Single Bench

Advocate : Sanjay Kulkarni, for the Appellant; Sanjay A. Patil, Addl. SPP for R1 and Sri R.S. Lagali, Adv for R2, for the Respondent

Judgement

Mohan Shantanagoudar

1. This Criminal Petition is filed under Section- 407 of Code of Criminal Procedure praying for transfer of P.C.R. No. 95/2012 (now registered as CC No. 566/2012) pending before the JMFC II Court, Bijapur to the Court of Metropolitan Magistrate, Bangalore. The 1st petitioner is the Editor of "Samyukta Karnataka" daily newspaper and the 2nd petitioner is the publisher of the Lok Shikshana Trust at Samyukta Karnataka Press. The 2nd respondent herein filed P.C.R. No. 95/2012 on 7.3.2012 alleging that the petitioners have committed the offences punishable under sections 499, 501 and 502 of IPC. It is alleged by Respondent No. 2 that the newspaper published on 4.3.2012 contained defamatory article against the advocates at large and because of the same, each and every advocate is embarrassed. It is alleged in the complaint that the advocates at large were addressed as "rowdy advocates".

Be that as it may, based on the complaint and materials produced, the process is issued against the accused. Now the matter is pending consideration before the JMFC II Court, Bijapur.

2. According to the petitioners, although they approached several advocates requesting them to appear on their behalf, the advocates at Bijapur have refused to appear and represent them in the matter. It seems the resolution is passed by the Bar Association, Bijapur unanimously resolving that none of the advocates from Bijapur should appear on behalf of the petitioners. According to the petitioners, they do not have any legal knowledge or skill to defend the legal proceedings initiated against them. The sum and substance of the case of the petitioners in this matter is that without the assistance of the advocate, their case would suffer and they will not be in a position to substantiate their case.

3. Sri Lagali, learned advocate appearing on behalf of Respondent NO. 2/ complainant also brings to the notice of the Court that the advocates at Bijapur have passed a resolution unanimously to the effect that none of the advocates at Bijapur should appear on behalf of the petitioners herein.

4. Having regard to the totality of the facts and circumstances and as this Court finds that sufficient opportunity of being heard needs to be given to the accused as well as the complainant (complainant is the President of the Bar Association, Bijapur), the interest of justice would be met with if the matter is transferred to some other place.

5. Sri Lagali, learned advocate appearing on behalf of Respondent No. 2 submits that the matter need not be transferred to Bangalore inasmuch as it is far off from Bijapur. Bangalore is at a distance of about 500 kilometers from Bijapur and therefore the complainant may not be in a position to appear before the trial Court at Bangalore for supporting his complaint. Having regard to the totality of the facts and circumstances, the matter may be transferred": to the Principal Court of JMFC at Bagalkot.

Accordingly, the following order is made:

P.C.R. No. 95/2012 (now registered as CC No. 566/2012) pending before the JMFC II Court, Bijapur stands transferred to the Principal Court of JMFC at Bagalkot. The Prl. District and Sessions Judge, Bagalkot should assign the matter to the said Court at Bagalkot.

Further proceedings will go on as per law. Till then, Non-bailable warrant issued against the accused/petitioners shall not be executed.

The Registry is directed to send the copy of this order to the Prl. District & Sessions Judge, Bagalkot forthwith and to the Presiding Officer of Prl. JMFC Court at Bagalkot.

Office of the JMFC II Court, Bijapur is directed to send the records forthwith to the Prl. District & Sessions Judge, Bagalkot in order to assign the matter to the Principal Court of JMFC at Bagalkot.

Criminal Petition is disposed of accordingly.