

(2013) 02 KAR CK 0150
In the Karnataka High Court
Case No : Criminal Petition No. 2973 of 2012

Nithyananda Swamy

APPELLANT

Vs

State of Karnataka and Shivaraj K.

RESPONDENT

Date of Decision : 25-02-2013

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 143, 149, 323, 504, 506

Citation : (2013) 02 KAR CK 0150

Hon'ble Judges : K.N. Keshavanarayana, J

Bench : Single Bench

Advocate : C.V. Nagesh, for C.V. Nagesh and Associates, for the Appellant; G.M. Srinivasa Reddy, HCGP for R-1, for the Respondent

Final Decision : Allowed

Judgement

K.N. Keshavanarayana, J.—In this petition filed u/s 482 of Cr.P.C., the petitioner has sought for quashing the FIR registered by Bidadi Police in Crime No. 295/2012. The petitioner is arraigned as Accused No. 1 in the said case registered for the offences punishable under Sections 143, 323, 504, 506 r/w. 149 of IPC.

2. According to the case of the prosecution, the said case came to be registered on the basis of the report said to have been lodged by one Shivaraja K., State President, Karnataka Nava Nirmana Sene, Bangalore City, on 07.06.2012, in respect of an incident said to have taken place on that day. According to the said report, when the complainant and the Members of the Karnataka Nava Nirmana Sene, went to the Ashram of this petitioner to enquire about the acts of atrocities and rioting, etc. on the journalists in the said ashram, devotees of this petitioner numbering more than 50, assaulted the complainant and other workers, abused them in filthy language in English and threatened them with dire consequences. Therefore, the complainant sought for police protection and also action against this petitioner and others.

3. On coming to know of the registration of the case, the petitioner has presented this petition. The quashing of the prosecution is sought principally on the ground that, even if the FIR lodged by the said complainant-K. Shivaraja is read as a whole at its face value, it does not make-out any offence against this petitioner, therefore, the registration of the case against this petitioner by the police is without any jurisdiction and is actuated with mala fides only to malign the petitioner.

4. I have heard Sri. C.V. Nagesh, learned Senior Counsel appearing for the petitioner and Learned Government Pleader appearing for the State. Respondent No. 2, the complainant before the police though served with the notice of this petition, has remained absent and unrepresented.

5. Having heard the learned Senior Counsel and Learned Government Pleader and on perusal of the contents of the FIR, I see considerable force in the contention urged on behalf of the petitioner. It is well-settled law by catena of decisions that if the allegation made in the FIR does not make-out any offence, the High Court would be justified in quashing the FIR in exercise of the power u/s 482 Cr.P.C. The FIR lodged in this case by K. Shivaraj reads as under:-

6. Thus, reading of the report lodged in this case, based on which the case came to be registered and criminal law was set on motion, it is clear that no allegation is made against this petitioner except stating that his followers committed the acts. The said report does not indicate the presence of this petitioner at the alleged place of incident nor it is alleged that this petitioner in any way instigated or abetted commission of the offence. Reading of the FIR in this case, makes it clear that no offence is made-out against this petitioner. In spite of the same, the respondent-police have proceeded to register the case against this petitioner arraigning him as Accused No. 1 and proceeded to investigate the matter.

7. Having regard to the fact that the allegations in the FIR does not make out any offence against this petitioner, he cannot be made liable for the alleged acts said to have been made by his disciples or followers. There cannot be any vicarious liability insofar as the offences under the Indian Penal Code. In this view of the matter, I am of the opinion that the registration of the case as against this petitioner is without jurisdiction and is without any basis, and is abuse of process of Law. Therefore, the FIR as against this petitioner is required to be quashed. In the result, the petition is allowed. The FIR in Crime No. 295/2012 of Bidadi Police Station, Ramanagara District, as against this petitioner arraigned as Accused No. 1 is hereby quashed.