

(1985) 08 KAR CK 0026
In the Karnataka High Court
Case No : Crl. P. No. 119/85

Rajendra Bhat, M.

APPELLANT

Vs

State of Karnataka

RESPONDENT

Date of Decision : 23-08-1985

Acts Referred:

Penal Code, 1860 (IPC) — Section 309

Citation : (1985) 2 KarLJ 451

Hon'ble Judges : M. S. Patil, J

Judgement

1. This is a petition filed under Sec. 482 of the Code of Criminal Procedure, with a prayer to quash the criminal proceedings instituted against him in C.C. No. 2612/1984 on the file of the Metropolitan Magistrate, Bangalore, for the alleged commission of the offence of attempt to commit suicide punishable under Sec. 309 IPC.

2. The petitioner is a student studying for M. Pharma. He had appeared for First year examination and he was declared failed in one of the papers pertaining to the subject of "Structural Activity Relationship". He claimed to be a First Class student and he was confident of his having passed in that subject as well. He requested for revaluation of his paper. But on refusal to do so, he went on a hunger strike on 16th October, 1984. On 20.10.1984, on coming to know of the same from some source, the P.S.I of Sampangiramnagar Police Station went to the place and removed him to the hospital. The Doctor on duty examined and found that due to fasting, mild de-hydration had set-in and there was also general weakness. The P.S.I. thought, it was a case for attempt to commit suicide and accordingly, he registered a case in Crime No. 321/84 for the offence under Sec. 309 IPC and issued F.I.R. to the Court and took up investigation. He also, later on, submitted a charge sheet. On the charge sheet so submitted by the Police, the Magistrate also having issued process, the petitioner has filed this petition invoking inherent powers of the High Court with a request to quash the criminal proceedings which as instituted against him.

3. Mr. Harikrishna S. Holla, learned Counsel for the petitioner argued, there was no criminal intention as Such to putting an end to the life. What the petitioner was doing was to pressurise the Educational Authorities concerned to see that the particular paper was revalued and he had accordingly undertaken a hunger strike to attract the attention of the authorities concerned and to meet his demand. Therefore, the mens rea being absent, no such offence was made out and the criminal proceedings as instituted against the petitioner by the Police is illegal and the same deserved to be quashed.

4. Mr. L.M. Pandurangaswamy, High Court Government Pleader appearing for the State was unable to persuade to sustain that charge as levelled against the petitioner. As rightly contended by the learned Counsel for the petitioner, mens rea being essence of criminal proceedings, in the absence of the criminal intention, no such offence punishable under Sec. 309 IPC can be said to have been made out at all. Although in such case where the condition becomes critical, it is open to interfere and give such medical treatment. But, it cannot be said that a person going on hunger strike commits an offence punishable under Sec. 309 IPC.

5. Mr. Harikrishna S. Holla also pointed out, later on particular paper was re-valued and the petitioner was also declared passed. In the circumstances, the criminal proceedings instituted against the petitioner are entirely illegal and therefore, deserve to be quashed.

Petition is allowed. Criminal proceedings instituted against the petitioner in C.C. No. 2612/1984 on the file of the Metropolitan Magistrate, Bangalore, are quashed.