

(2013) 07 KAR CK 0050
In the Karnataka High Court
Case No : Criminal Petition No. 4538 of 2009

Sheik Issak

APPELLANT

Vs

S.S. Khazi

RESPONDENT

Date of Decision : 19-07-2013

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 34, 500, 501, 502

Citation : (2013) 07 KAR CK 0050

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

Bench : Single Bench

Advocate : Vishwajith Shetty, for the Appellant; A. Krishna Bhat, for the Respondent

Judgement

K.N. Keshavanarayana, J.—In this petition filed u/s 482 of Code of Criminal Procedure, petitioner arrayed as accused No. 1 in C.C. No. 3485/09 on the file of JMFC II Court, Mangalore has sought for quashing of the prosecution launched against him in the said case for the offences punishable under Sections 500, 501, & 502 r/w Section 34 of Indian Penal Code. Respondent practicing Advocate at Mangalore lodged a private complaint before the learned Magistrate alleging the aforesaid offences against the petitioner and another arrayed as accused No. 2 who is stated to be the printer, publisher and editor of a Kannada Daily newspaper called "Karavali Ale". The learned Magistrate after taking cognizance of the offences alleged, recorded sworn statement of the complainant and thereafter, directed issue of summons to the petitioners and other accused. On coming to know of the same, petitioner has presented this petition inter alia on the ground that the petitioner has nothing to do with the publication made in the newspaper nor he is related in any manner to the newspaper, as such no case is made out against him for any of the offences alleged.

2. I have heard the learned counsel for the petitioner as well as learned counsel for the respondent and perused the allegations made in the complaint, a copy of

which is produced along with this petition.

3. No doubt, petitioner has no relationship whatsoever with the newspaper "Karavali Ale". However, according to the complaint allegations, the objectionable article published in the newspaper, of which accused No. 2 is the printer, publisher and editor, was at the instance of this petitioner. A copy of the newspaper carrying the objectionable report is produced for perusal of this Court. Contents of the report prima facie indicates that it is per se defamatory. However, the questions as to whether said report was published in the newspaper at the instance of this petitioner and whether this petitioner has any role in the publication of such report are the matters, which are required to be considered by the Trial Court after a full-fledged trial. At this stage, the allegations made in the complaint makes out a prima facie case against the petitioner for the offences alleged. Therefore, this is not a fit case for exercising the jurisdiction u/s 482 of Cr.P.C. and quash the prosecution launched against this petitioner. Therefore, petition is rejected.