
(2013) 09 KAR CK 0369
In the Karnataka High Court
Case No : Criminal Petition No. 11173 of 2013

Shri Chandrakant B. Muragode and B.I. Bendawade	APPELLANT
Vs	
State of Karnataka and Shri Arun	RESPONDENT

Date of Decision : 30-09-2013

Acts Referred:

Penal Code, 1860 (IPC) — Section 120B, 409, 420, 465, 467
Prevention of Corruption Act, 1988 — Section 13(1)c, 19, 7

Citation : (2013) 09 KAR CK 0369

Hon'ble Judges : Anand Byrareddy, J

Bench : Single Bench

Advocate : Prashant F. Goudar, absent, for the Appellant; M.B. Gundewade, Advocate for R1, Shri Santosh B. Malagoudar and Shri A.R. Patil, Advocates for R2, for the Respondent

Final Decision : Dismissed

Judgement

Anand Byrareddy, J.—The counsel for the petitioners has remained absent. However, the learned counsel for the respondents were heard. The petitioners are said to be public servants. Respondent No. 2, had filed a private complaint alleging offences punishable under Sections 7, 13(1)(C) of the Prevention of Corruption Act, 1988 (hereinafter referred to as the "P.C. Act", for brevity) and Sections 409, 465, 467, 468, 471, 477A, 420, 120B of the Indian Penal Code, 1860 (hereinafter referred to as "I.P.C.", for brevity) against the petitioners and others, who had supplied materials to the Gram Panchayath. It is alleged that the President and staff of the Panchayath have misappropriated huge amounts of Government funds and the funds reserved for Mahatma Gandhi National Rural Employment Guarantee Scheme (hereinafter referred to as "MGNREG", for brevity) by forging and have withdrawn huge sums of money, apart from committing other irregularities. The Court below having directed investigation into the allegations by the police, the present petition is filed seeking that the proceedings are invalid for want of sanction under the provisions of Section 19 of the P.C. Act.

2. It is noticed that the counsel for the petitioners seeks to rely on the judgment in the case of State of U.P. Vs. Paras Nath Singh, , which, as pointed out by the learned counsel for respondent No. 2, runs against the very case of the petitioners. From a reading of the case law, it may be possible to hold that a prior sanction was necessary for institution of any such case, and though the legal position therein is debatable. It is pointed out that, insofar as Paras Nath Singh is concerned, the Apex Court itself has laid down that, apart from provisions of P.C. Act, if the provisions of IPC are invoked in respect of acts, which do not fall within the official duties of such public servants, the question of prior sanction may not arise. Therefore, the very case/law cited by the petitioner would run against the case of the petitioners. This position being examined, it is to be noticed that the allegations are not in respect of acts performed by the petitioners in the course of their official duties, but are offences under the provisions of IPC, which relate to acts that fall outside the scope of official duties. Therefore, the question of sanction was not relevant, and hence, the petition is rejected.