

(2011) 03 KAR CK 0030
In the Karnataka High Court
Case No : Criminal Petition No. 6195 of 2010

Sri. Vikas Sethia

APPELLANT

Vs

The State of Karnataka and Sri. Rajesh Kumar

RESPONDENT

Date of Decision : 07-03-2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 406, 420

Citation : (2011) 03 KAR CK 0030

Hon'ble Judges : K.N. Keshava Narayana, J

Bench : Single Bench

Advocate : R.S. Arun Kumar, for the Appellant;

Judgement

K.N. Keshava Narayana, J.—In this petition filed u/s 482 Code of Criminal Procedure, the Petitioner has sought for quashing the entire proceedings in Crime No. 76/10 on the file of the IV Additional CMM, Bangalore.

2. Respondent No. 2 herein filed a complaint before the Cubbon Park Police on 30.3.2010 against the Petitioner herein and another alleging offences punishable under Sections 406 and 420 IPC inter alia contending that the Petitioner herein was introduced to him by his friend Karan Agarwal who is arraigned as accused No. 2, in May 2009 and after four months of discussion, the Petitioner, the second Respondent, accused No. 2 and one Yeshwanth Dogra agreed to form an equal partnership for a Resort Project and for that the Petitioner herein as well as accused No. 2 informed the complainant that they will get the funding done by a Mauritius based Bank and for that purpose they need to spend about Rs. 30 lakhs and all the four of them have to share the said sum of Rs. 30 lakhs by each of them contributing Rs. 7.5 lakhs. As per the said agreement, the complainant and his friend Yeshwanth Dogra paid a sum of Rs. 11 lakhs to the Petitioner herein and accused No. 2. However, after receiving the said amount neither the Petitioner nor accused No. 2 did take any steps in the implementation of the project nor secured any financial assistance from the Mauritius Bank. It was also

alleged in the complaint that the complainant later learnt that file number given by the Petitioner herein was found to be a non-existent, on enquiry with the Mauritius Consulate. Thus, according to the complainant, the Petitioner as well as his friend accused No. 2 have committed criminal breach of trust and cheating. Based on the said complaint, the police registered the case and took up investigation. After completion of the investigation police have filed charge sheet against the Petitioner and accused No. 2 for the aforesaid offences.

3. The learned Magistrate on perusal of the charge sheet, by order dated 6.9.2010 has taken cognizance of the offences alleged and has ordered issue of summons to the Petitioner as well as the other accused. On coming to know of the same, the Petitioner has presented this petition seeking to quash the entire proceedings inter alia on the ground that the transaction between the parties is purely civil in nature and even the Petitioner has invested the amount and the amount has been spent for the implementation of the project as such the Petitioner has not committed any criminal acts of breach of trust or cheating, therefore, the entire proceedings is a vindictive one and is liable to be dismissed.

4. I have heard the learned Counsel for the Petitioner and perused the records produced. The materials on record prima facie indicate that the Petitioner herein and Respondent No. 2 along with others entered into a transaction and for the intended project, Respondent No. 2 who is the complainant invested a sum of Rs. 5.5 lakhs along with his friend Yeshwanth Dogra investing another sum of Rs. 5.5 lakhs. At this stage, the materials produced along with the charge sheet prima facie indicates that the Petitioner has not taken any steps in the implementation of the intended project. Though it is contended on behalf of the Petitioner that he has several documents to indicate his investment as well as spending of some amount towards the project, nothing is produced before this Court. Having regard to the facts and circumstances of the case, I am of the opinion that materials on record at this stage are prima facie sufficient, to indicate that the offences alleged against the Petitioner. The learned Magistrate having applied his mind to the materials on record, has taken the cognizance of the offence.

5. In the light of the above, I find 110 ground to quash the proceedings. Accordingly, the petition is dismissed. If the Petitioner files any application before the learned Magistrate for discharge, it is needless to point out that the learned Magistrate has to consider the same and pass orders in accordance with law.