

(2013) 08 KAR CK 0200
In the Karnataka High Court
Case No : Criminal Petition No. 5822 of 2009

The President and The Secretary

APPELLANT

Vs

Mr. D.K. Venkatanaresh Babu

RESPONDENT

Date of Decision : 20-08-2013

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 120(B), 405, 406, 409, 415

Citation : (2013) 08 KAR CK 0200

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

Bench : Single Bench

Advocate : Gururaju C.D, for the Appellant; Narayana Reddy . M., for the Respondent

Judgement

K.N. Keshavanarayana, J.—None appeared on behalf of the petitioners though the matter is listed today for admission. The matter is already four years old. Therefore, I find no justifiable grounds to adjourn the matter. Perused the petition and the grounds urged therein.

2. In this petition, the petitioners have sought for quashing the prosecution launched against them in C.C. No. 55/2009 on the file of the II Additional Civil Judge (Jr. Dn.) & JMFC, Tumkur, for the offences punishable under Sections 405, 406, 409, 415, 417, 418, 420 r/w. 120(B) of IPC.

3. The respondent filed private complaint alleging the aforesaid offences against the petitioners. The learned Magistrate took cognizance of the offences, recorded the sworn statement and by the impugned order, directed registration of the case and issue of summons to the petitioners.

4. The sum and substance of the allegations made in the private complaint are that the complainant is an Associated Member of the Karnataka Telecom Employees Co-operative Society and in that capacity, he applied for a site measuring 30ft. x 40ft. in the lay-out formed by the Society in Mysore The two

accused persons, as the President and Secretary of the said society, accepted the complainant's application and also received Rs. 1,96,800/- paid under two cheques. However, the two accused persons colluding with the complainant's brother, have transferred the Associate Membership of the complainant to the name of the complainant's brother, without any kind of authorization in that regard and thereby have committed the aforesaid offences.

5. Quashing of the prosecution is sought on the ground that the petitioners have transferred the Associate Membership of the complainant to the name of his brother on the strength of a letter given by the complainant, as such, they have not committed any: offences. It is also contended that, reading of the complaint as a whole, does not constitute commission of any cognizable offences, as such, the order of taking cognizance and directing issue of summons, is without any basis, therefore, it is liable to be quashed. Having perused the grounds urged and the materials on record, at this stage, I am of the considered opinion that there are no justifiable grounds to entertain this petition. The grounds urged in support of this petition are in the nature of defence pleas, which are required to be substantiated at the trial. This court in a petition u/s 482 of Cr.P.C., cannot undertake the exercise of evaluating evidence and recording a finding thereon. The said exercise is required to be done by the trial court after the full-fledged trial. In this view of the matter, I find no merit in this petition. Therefore, the petition is rejected.