

'Removal From Service Cannot Become A Ground For Filing Sexual Assault Complaint': Karnataka HC Quashes Sexual Harassment Case Against Post Master

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IN THE HIGH COURT OF KARNATAKA AT BENGALURU

K. NATARAJAN; J.

CRIMINAL PETITION NO. 8277 OF 2021; 24 November, 2022

RADHAKIRSHAN @ K RADHAKRISHNA versus STATE OF KARNATAKA

Petitioners by Afruj Pasha, Advocate for Rajesh S.R., Advocate.

Respondents by B.J. Rohith, HCPG for R1/state; Rajashekhar K., Advocate for r2)

ORDER

1. This petition is filed by Accused Nos.1 and 2 under Section 482 of Cr.P.C. for quashing the criminal proceedings in C.C. No.8264/2019 registered by Basavanagudi Police Station in Crime No.150/2018 for the offences punishable under Section 354(A) read with 34 of IPC.

2. Heard the arguments of learned counsel for the petitioners, Sri.Rohit, learned HCGP for respondent No.1 and Sri.Rajashekhar.K, learned counsel for respondent No.2. Perused records.

3. The case of the prosecution is that on a complaint filed by respondent No.2, Basavanagudi Police station registered a case on 16.05.2018. It is alleged that mother of respondent No.2 was said to have been working in the post office at Basavanagudi Post Office as temporary employee and as she was unwell, respondent No.2 was working in the post office. Petitioner No.1 said to be previous Post Master of the Post Office for the last ten years. Subsequently, accused No.2-Hanumanthaiah became Post Master. It is the allegation of the complainant that he used to insult her stating she is not working properly and was insisting her to do work and threatening to remove her from work. In spite of the complainant apologizing, accused continued threatening her to remove from work. Hence, she attempted to commit suicide jumping from terrace and the office staff brought her back. Thereafter, it is alleged that he sought sexual favour from her for which she has rejected. However, she has stated that some day, the accused No.1 took her in his car to a public park at 8th Mile and attempted to have sexual affair with her. At that time, some one came and caught hold of accused No.1 and the complainant walked away from the spot. Thereafter, the complainant filed the complaint. On the basis of the complaint, the police registered a case in Crime No.150/2018 and after investigation filed a charge sheet, which is under challenge.

4. Learned counsel for the petitioner submitted that there is no specific allegation made out against the accused that they sought sexual favour by the victim. She has stated some office boy by name Vinay came and asked her to come to the chambers of accused. The said Vinay has not been examined as witness. Learned counsel further submitted that the complainant had gone to the Main Post Office at 9th Block, Jayanagar to complain, but one Tara did not allow her to meet the Superintendent. The said Tara is also not examined as a witness to prove the charges levelled against the accused. There are no other witnesses examined except the complainant and her mother. Since the complainant was removed from her job, she uttered that she would file a complaint and teach them a lesson. Hence, a false complaint has been foisted against the petitioners. Thus, learned counsel submits that continuation of criminal proceedings is an abuse of process of law and prays for allowing the petition.

- 5.** Per contra, learned HCGP contended that in Section 164 of Cr.P.C. statement of the victim, the complainant has elaborately explained the harassment meted out by her and she has stated that one Vinay had asked her to go the chambers of accused and the accused sought sexual favour from her. Therefore, the matter requires trial and prays for dismissing the petition.
- 6.** Learned counsel for respondent No.2 also objected and contended that there is allegation made against the petitioners attracting 354 of IPC. Therefore, the matter is required to be investigated and needs trial. Hence, prays for dismissal of the petition.
- 7.** Having heard the learned counsel for the parties, it is not in dispute that respondent No.2 is said to be a temporary Group-D employee in the Post office at Basavanagudi wherein the petitioners were said to be the Post Masters. On the allegation that respondent No.2 is not working properly, the petitioners removed her from work. She requested them not to do so since she has to pay rent of Rs.5,600/- and has a daughter to take care and look after the family and she is depending on the salary. In spite of her request, same was not given a heed and was removed from job. Subsequently, it is stated by her that she went to Main Post Office to complain, but one Tara did not allow her to meet the Superintendent. She has also stated that once she wanted to commit suicide by going to the roof top, but others brought her back. However, there is a specific allegation made by that victim that subsequently Accused No.1 is said to have taken her to a public park at 8th Mile and tried to have sexual affair with her at that time, some person caught hold of them, therefore, they came back. The police did not investigate the matter by going to the 8th Mile park to see whether the said park is there or not and examine whether an CCTV is installed and obtained CCTV footage to check as to whether accused No.1 and victim had in fact visited the park or not. That apart, it is stated that one Vinay asked her to come to the chambers alone and speak with accused No.1, but the said Vinay has not been examined. No witnesses were examined by the Investigating Officer except recording the 164 of Cr.P.C. statement of the victim before the Magistrate and statement of her mother.
- 8.** On Perusal of the above, there are no ingredients have been made out by the prosecution to attract the allegations. Merely the Officer, in-charge of the Post Office removed the employee from the service, that itself cannot be a ground for filing a complaint and dragging them to Court on the allegation of sexual assault on the victim. There is no material or statement of any other witness to prove the allegation made by the victim. Even Section 354(1) of IPC does not attract regarding sexual exploitation by Accused Nos.1 and 2 in the complaint. That being a case, conducting criminal proceeding is nothing but abuse of process of law. The petition is liable to be dismissed.
- 9.** Accordingly, the petition is dismissed.
- 10.** Criminal proceedings against Accused Nos.1 and 2 stand quashed.