



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 2ND DAY OF NOVEMBER, 2023

BEFORE

THE HON'BLE MR JUSTICE HEMANT CHANDANGOUDAR

CRIMINAL PETITION No. 10483 OF 2022

BETWEEN:

1. SYED ESA IBRAHIM
2. SYED MUJAHID MEHDI

...PETITIONERS

(BY SRI MOHAMMED TAHIR, ADVOCATE)

AND:

1. STATE BY CHANNAPATNA EAST PS
REPRESENTED BY
STATE PUBLIC PROSECUTOR
HIGH COURT COMPLEX BUILDING
BANGALORE - 560 001.
2. RANJAN M. R.

...RESPONDENTS



(BY SRI K PARAMESHWARAPPA, HCGP FOR R1
R2- SERVED AND UNREPRESENTED)

THIS CRL.P IS FILED U/S. 482 CR.P.C PRAYING TO QUASH THE CHARGE SHEET DATED 12.01.2021 AT ANNEXURE-C WHICH IS REGISTERED AS C.C.NO.1152/2021 UNDER SECTION 353, 341, 506, 114 R/W 34 OF IPC, ARISING OUT OF CR.No.100/2020 CHANNAPATNA EAST P.S., SAME IS PENDING BEFORE THE ADDITIONAL CIVIL JUDGE AND J.M.F.C., CHANNAPATNA WHEREIN PETITIONERS ARE ARRAYED AS ACCUSED No.1 AND 2.

THIS PETITION COMING ON FOR ADMISSION THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

Petitioners - accused Nos.1 and 2 are sought to be prosecuted for the offences under Sections 341, 353, 506 and 114 r/w Section 34 of IPC.

2. Case of the prosecution is that; accused No.1 was running the hotel business beyond 11.30 pm on the date of incident, and when the complainant and other police personnel questioned the same, the accused abused them with unparliamentary words, and threatened them with dire consequences and restrained them from discharging their official duties.

3. Learned counsel for the petitioners submits that even accepting the allegations made against the petitioners, on the face of it, does not satisfy the essential



elements to constitute the commission of the alleged offences. Therefore, the continuation of the criminal proceedings would be an abuse of process of law.

4. Learned High Court Government Pleader for the State submits that the petitioners by restraining the police personnel from discharging their duties and abusing them have committed the aforesaid offences and the veracity of the allegations can be considered at the time of trial and the same cannot be gone into in this petition.

5. Considered the submissions made by the learned counsel for the parties.

6. Section 353 of IPC deals with assault or criminal force to deter the public servant from discharge of his duties and it reads thus:

"353. Assault or criminal force to deter public servant from discharge of his duty. - Whoever assaults or uses criminal force to any person being a public servant in the execution of his duty as such public servant, or with intent to prevent or deter that person from discharging his duty as such public servant, or in consequence of anything done or attempted to be done by such person to the lawful discharge of his duty as such public servant, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both."



7. To constitute an offence under Section 353 of IPC, a person must have assaulted or used criminal force in deterring the public servant from discharging the official duties. The term 'criminal force' is defined under Sections 349 and 350 of IPC. A reading of the aforesaid provisions indicate that, to use criminal force means causing injury, fear or annoyance to the person against whom criminal force is used.

8. In the instant case, there is no allegation, much less, any material against the petitioners herein, either assaulting or using criminal force, so as to deter the police personnel from discharging their duties, except that the petitioners abused and threatened the police personnel which does not satisfy the requirement of Sections 349 and 350 of IPC. Therefore, the essential elements to constitute the commission of an offence under Section 353 of IPC is conspicuously absent.

9. Though it is alleged that the petitioners are running the hotel beyond the stipulated period, utmost may constitute an offence under Section 188 of IPC and the cognizance of the said offences can be taken only upon a complaint in writing by the officers prescribed under Section 189 of IPC. However, the police to



overcome the said provision have not invoked the said provision.

10. To constitute an offence under Section 341 of IPC, a person must have wrongfully restrained another person from proceeding beyond circumstantial limits. In the instant case, there is no allegation or material that the petitioners restrained the police personnel from proceeding beyond circumstantial limits, except the allegation that they restrained the police personnel from discharging their duties. Threatening the police personnel with dire consequences has not resulted in breach of public peace or committing any other offense by the complainant or his staff, which is an essential ingredient to constitute commission of offence under Section 506 of IPC. Therefore, in view of the preceding analysis, the continuation of the criminal proceedings would not subserve the ends of justice. Accordingly, the criminal petition is **allowed**. The impugned proceeding in C.C.No.1152/2021 on the file of Additional Civil Judge and JMFC, Channapatna stands quashed.

**Sd/-
JUDGE**

GH
List No.: 1 Sl No.: 55