

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 02ND DAY OF JUNE, 2022

BEFORE

THE HON'BLE MR.JUSTICE HEMANT CHANDANGOUDAR

CRIMINAL PETITION NO.2072 OF 2017

BETWEEN:

B.DURGA RAM

...PETITIONER

(BY SRI CHANDRAHASA RAI B., ADVOCATE)

AND:

1. THE STATE BY
BENGALURU CITY CENTRAL P.S.
REPT. BY STATE PUBLIC PROSECUTOR
KARNATAKA HIGH COURT BUILDING
BENGALURU - 560 001
2. BABU LAL

...RESPONDENTS

(BY SRI S. VISHWAMURTHY, HCGP FOR R1;
R2 SERVED)

THIS CRIMINAL PETITION IS FILED U/S 482 CR.P.C PRAYING TO QUASH THE ENTIRE PROCEEDINGS AROSE IN FIR BEARING NO.168/2013 DATED 26/12/2012 FOR THE OFFENCE PUNISHABLE UNDER SECTIONS 323, 504, 506 READ WITH SECTION 34 OF IPC REGISTERED BY BENGALURU CITY CENTRAL P.S., PENDING IN C.C.NO.20068/2015 ON THE FILE OF I ACCM BENGALURU CITY AGAINST HIM AND GRANT SUCH AND FURTHER RELIEF/RELIEFS AS THIS HON'BLE COURT MAY DEEM FIT ON THE FACTS AND CIRCUMSTANCES OF THE CASE IN THE INTEREST OF JUSTICE AND EQUITY.

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

ORDER

The FIR was lodged by the 2nd respondent alleging that one Tulasa Ram – accused No.1 was due a sum of Rs.66,00,000/- (Rupees Sixty Six Lakhs only) and he had lodged the FIR against the accused No.1 before the Halasoor Gate Police Station. Such being the case, when the respondent No.2 and accused No.1 met at Prakash Café as to settle the matter, at that point of time, the

accused No.1 and petitioner – accused No.2 herein, abused the 2nd respondent in filthy language and gave threat to his life and also assaulted him with their hands.

2. The police after investigation, submitted the chargesheet against the petitioner and others for the offences punishable under Section 323, 504, 506 r/w 34 of IPC.

3. The learned Magistrate after accepting the chargesheet, took cognizance for the aforesaid offences and issued summons to the petitioner – accused. Taking exception to the same, this petition is filed.

4. Learned counsel for the petitioner submits that the alleged incident had taken place 45 days prior to lodging of the FIR. However, there is no plausible explanation offered in the FIR for the delay in lodging the FIR. He further submits that in the absence of any statement of the employees or customers in the Prakash Café, recorded under Section 161 of IPC, the chargesheet

filed by the police in the absence of any corroborative material is without any substance.

5. Learned HCGP appearing for the State would submit that the chargesheet material clearly discloses the commission of the aforesaid offences alleged against the petitioner and the same does not warrant any interference by this Court.

6. I have considered the submissions made by learned counsel appearing for the parties.

7. The FIR was lodged alleging that one and half months back the petitioner and other accused abused him in filthy language and assaulted him. However, there is no plausible explanation offered in the impugned FIR for the delay in lodging the FIR.

8. The Apex Court in the case of **State of AP vs. M. Madhusudhan Rao**, reported in (2008) 15 SCC 582, at para 30 has held as follows:

"30. Time and again, the object and importance of prompt lodging of the first information report has been highlighted. Delay in lodging the first information report, more often than not, results in embellishment and exaggeration, which is a creature of an afterthought. A delayed report not only gets bereft of the advantage of spontaneity, the danger of the introduction of a coloured version, an exaggerated account of the incident or a concocted story as a result of deliberations and consultations, also creeps in, casting a serious doubt on its veracity. Therefore, it is essential that the delay in lodging the report should be satisfactorily explained."

9. In the absence of any plausible explanation offered by the 2nd respondent – informant, the FIR lodged against the petitioner – accused is with malice and without any probable cause. Even otherwise, to constitute the commission of the offence punishable under Section 323 of IPC, the police have not placed any material that the respondent No.2 sustained any simple injuries due to the alleged assault made by the petitioner – accused.

10. To constitute the commission of offence punishable under Section 504 and 506 of IPC, the intention of insult must be of such a degree to provoke breach of public peace or commission of any other offence. In the present case, the abusive language alleged to have been used by the petitioner – accused has not caused breach of public peace or commission of any other offences. In view of the same, it would be an abuse of process of law, if the criminal proceedings are allowed to be continued against the petitioners, since the probability of conviction of the petitioner – accused No.2 is remote and bleak.

Accordingly, I proceed to pass the following:

ORDER

Criminal petition is allowed.

The impugned proceedings in C.C.No.20068/2015 pending on the file of I ACMM, Bengaluru City insofar it relates

to petitioner – accused No.2 is hereby
quashed.

Sd/-
JUDGE

MR

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