
Manjunatha D C Vs State Of Karnataka & Others

Criminal Petition No. 591 Of 2023

Court: Karnataka High Court At Bengaluru

Date of Decision: May 18, 2023

Acts Referred:

Code Of Criminal Procedure, 1973 " Section 173(8), 482#Indian Penal Code, 1860 " Section 114, 120B, 149, 379, 420

Citation: (2023) 05 KAR CK 0026

Hon'ble Judges: K. Natarajan, J

Bench: Single Bench

Advocate: Shivaramu H C, R.D. Renukaradhya

Final Decision: Dismissed

Judgement

K.Natarajan, J

1. This criminal petition is filed by the petitioner-accused No.114 under Section 482 of Cr.P.C. for quashing the criminal proceedings in

C.C.No.3544/2019 arising out of crime No.4343/2018 registered by Cyber Crime Police for the offences punishable under Sections 120B, 114, 379,

420 read with Section 149 of IPC.

2. Heard the arguments of learned counsel for the petitioner and learned SPP-II for respondents.

3. The case of the prosecution is that the police registered a suo moto case against accused No.1 and others, on 23.11.2018, and filed charge sheet

against them. It is alleged in the complaint that accused Nos.1 to 5, colluded together in obtaining the question paper in respect of the recruitment to

the post of Police Constable to be held on 25.11.2018. The accused took the Xerox copy of the question paper and called all the accused persons i.e.,

accused-8 to 123, who were about to take examination in the hall, and after discussing with them, collected Rs.25,000/- and leaked the question

papers. Totally, they collected more than Rs.1,16,23,000/- from the various candidates for leaking the question papers and they said to be trained them

on 24.11.2018 in the morning, i.e. a day prior to the examination, at SKS High School, Kalmat. All the accused persons were apprehended and the

police seized cash from accused Nos.1 to 7 and also cheque leaf under panchanama and they were charge sheeted, which is under challenge.

4. Learned counsel for the petitioner has contended that the petitioner is only aspirant of the constable post, the examination was not all conducted. The

main accused persons have actually stolen the question papers and copied and given to the petitioner and therefore, it cannot be an offence under the

provisions of IPC. The petitioner has neither paid any money nor took examination. Therefore, there is no case made out against the petitioner-

accused. The learned counsel further contended that the petitioner-accused came to the examination hall on 25.11.2018 and he has been apprehended

by the police. Till his arrest by the police, the petitioner was not having the knowledge of the leakage of the question papers. The learned counsel

further submitted the petitioner was not arrested by the police together with the other accused persons. Hence, he prayed for allowing the petition.

5. Per contra, learned SPP- II objected the petition and contended that all the accused persons were arrested by the police, when main accused

persons were training the candidates who were about to take the examination on 25.11.2018. All the accused were apprehended together and

produced before the Magistrate. The cash, xerox copy of the question paper and other materials from the accused were seized by the police. The

investigation has been completed and charge sheet has also been filed. It is further contended that the police are also making further investigation and

they will file additional charge sheet under Section 173(8) of Cr.P.C. and hence, prayed for dismissing the petition.

6. Having heard the arguments of the learned counsel for the parties, perused the records, which reveal that, admittedly, accused No.1 is said to be

the pontiff of SKS High School, Kalmat. The said school was selected by the authorities for conducting the aforesaid examination. Accused Nos.1 to

7 were colluded each other with an intention to have wrongful gain and they some how stolen the question paper and obtained the xerox copies. They

contacted the candidates including the petitioner and by receiving the advance amount, they leaked the question paper by providing copy of the same.

The main accused have also trained the candidates, a day prior to the examination, when the police apprehended them. The investigation paper reveals

that all the accused persons were arrested by the police in a hall belongs to accused No.1, which was obtained on rental/commission basis.

7. The learned counsel for the petitioner has contended that the petitioner was not arrested on 24.11.2018 and he was arrested on 25.11.2018, i.e. on

the date of examination, when he was present in the hall. The petitioner can take the said defence in the trial. This Court cannot conduct a mini trial or

enquiry for quashing the criminal proceedings against him merely, on the basis of oral defence without going into trial as the entire case is entirely

based upon documentary evidence. Therefore, the petition is devoid of merit and is liable to dismissed.

Accordingly, criminal the petition is dismissed.