

: 1 :

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 25<sup>TH</sup> DAY OF FEBRUARY 2013

BEFORE

THE HON'BLE MR.JUSTICE K.N.KESHAVANARAYANA

CRIMINAL PETITION No.2973/2012

BETWEEN:

Nithyananda Swamy,  
Formerly Known as Tiru Rajashekarana,  
Aged about 34 years,  
S/o. Sri.Arunachalam,  
Resident of Nithyananda Dhyana Peetam,  
Nithyanandapuri,  
Kallugoppanahalli Village, Bidadi Hobli,  
Ramanagar District.

... Petitioner

[By Sri. C.V.Nagesh Senior Counsel for  
M/s. C.V.Nagesh & Associates, Advocates]

AND:

1. State of Karnataka,  
By Bidadi Police Station,  
Ramanagar Rural Circle,  
Ramanagar District.
2. Shivaraj.K.,  
President,  
Karnataka Nava Nirmana Sene,  
Bangalore.

... Respondents

[By Sri.G.M.Srinivasa Reddy, HCGP for R-1;  
Respondent No.2 is Served]

: 2 :

This Criminal Petition is filed under Section 482 of the Cr.P.C. praying to call for the records in relation to the case in Crime No.295/2012 registered at Bidadi Police Station, Ramanagar District, for the offences which are made penal under Sections 143, 323, 504 and 506 read with Section 149 of IPC etc.

This Criminal Petition coming for admission on this day, the Court made the following: -

O R D E R

In this petition filed under Section 482 of Cr.P.C., the petitioner has sought for quashing the FIR registered by Bidadi Police in Crime No.295/2012.

2) The petitioner is arraigned as Accused No.1 in the said case registered for the offences punishable under Sections 143, 323, 504, 506 r/w. 149 of IPC.

3) According to the case of the prosecution, the said case came to be registered on the basis of the report said to have been lodged by one Shivaraja K., State President, Karnataka Nava Nirmana Sene, Bangalore City, on 07.06.2012, in respect of an incident said to have taken place on that day. According to the said report, when the complainant and the Members of the Karnataka Nava Nirmana Sene, went to the Ashram

of this petitioner to enquire about the acts of atrocities and rioting, etc. on the journalists in the said ashram, devotees of this petitioner numbering more than 50, assaulted the complainant and other workers, abused them in filthy language in English and threatened them with dire consequences. Therefore, the complainant sought for police protection and also action against this petitioner and others.

4) On coming to know of the registration of the case, the petitioner has presented this petition. The quashing of the prosecution is sought principally on the ground that, even if the FIR lodged by the said complainant- K Shivaraja is read as a whole at its face value, it does not make-out any offence against this petitioner, therefore, the registration of the case against this petitioner by the police is without any jurisdiction and is actuated with mala fides only to malign the petitioner.

5) I have heard Sri. C.V. Nagesh, learned Senior Counsel appearing for the petitioner and Learned

Government Pleader appearing for the State. Respondent No.2, the complainant before the police though served with the notice of this petition, has remained absent and unrepresented.

6) Having heard the learned Senior Counsel and Learned Government Pleader and on perusal of the contents of the FIR, I see considerable force in the contention urged on behalf of the petitioner. It is well-settled law by catena of decisions that if the allegation made in the FIR does not make-out any offence, the High Court would be justified in quashing the FIR in exercise of the power under Section 482 Cr.P.C. The FIR lodged in this case by K. Shivaraj reads as under:-

“ಮಾನ್ಯರೇ,

ಬಿಡದಿಯ ನಿತ್ಯಾನಂದ ಆಶ್ರಮದಲ್ಲಿ ಪತ್ರಕರ್ತರ ಮೇಲಿನ ಹಲ್ಲೆಯನ್ನು ಖಂಡಿಸಿ ಕರ್ನಾಟಕ ನವ ನಿರ್ಮಾಣ ಸೇನೆಯ ಕಾರ್ಯಕರ್ತರು ನಿತ್ಯಾನಂದ ಸ್ವಾಮೀಜಿಯನ್ನು ಸೌಜನ್ಯಕ್ಕೆ ವಿಚಾರಿಸಲು ಹೋದಾಗ ನಿತ್ಯಾನಂದನ ಕಾರ್ಯಕರ್ತರು ಕನಸೇ ಕಾರ್ಯಕರ್ತರಾದ ನಾರಾಯಣ ಮತ್ತು

ಗೋವಿಂದರವರ ಮೇಲೆ ಮಾರಣಾಂತಿಕವಾಗಿ ಹಲ್ಲೆ  
ಮಾಡಿದ್ದಾರೆ. ಕಾರ್ಯಕರ್ತರಿಗೆ ಎದೆ ಹಾಗೂ ಹೊಟ್ಟೆಯ  
ಮೇಲೆ ಹಾಗೂ ಮೊಳಕಾಲಿನ ಮೇಲೆ ತೀವ್ರ ಸ್ವರೂಪವಾದ  
ಹಲ್ಲೆ ಮಾಡಿರುತ್ತಾರೆ. ನಿತ್ಯಾನಂದನ ಸುಮಾರು 50ಕ್ಕೂ  
ಹೆಚ್ಚು ಜನ ಕಾರ್ಯಕರ್ತರು ಹಲ್ಲೆ ಮಾಡಿರುತ್ತಾರೆ. ಅಲ್ಲದೆ  
ಆಂಗ್ಲ ಭಾಷೆಯ ಶಬ್ದಗಳಲ್ಲಿ ಅವಾಚ್ಯ ಶಬ್ದಗಳಿಂದ  
ನಿಂದಿಸಿರುತ್ತಾರೆ ಮತ್ತು ಬೆಂಗಳೂರುನಗರ ಅಧ್ಯಕ್ಷರಾದ  
ಯತಿರಾಜರವರಿಗೂ ಬೆದರಿಕೆಯನ್ನು ಹಾಕಿರುತ್ತಾರೆ.  
ಆದರಿಂದ ನಮ್ಮ ಕಾರ್ಯಕರ್ತರಿಗೆ ಜೀವಭಯವಿರುವ  
ಕಾರಣ ತಾವು ನಮಗೆ ರಕ್ಷಣೆ ನೀಡುವುದರ ಮೂಲಕ  
ಸಹಾಯ ಮಾಡಬೇಕೆಂದು ಕೇಳಿಕೊಳ್ಳುತ್ತೇವೆ ಮತ್ತು  
ನಿತ್ಯಾನಂದ ಸ್ವಾಮಿಯ ಮೇಲೆ ಕ್ರಿಮಿನಲ್ ಮೊಕದ್ದಮೆ  
ದಾಖಲಿಸಬೇಕೆಂದು ತಮ್ಮಲ್ಲಿ ಮನವಿ ಮಾಡಿಕೊಳ್ಳುತ್ತೇವೆ.

ವಂದನೆಗಳೊಂದಿಗೆ,  
ತಮ್ಮ ವಿಶ್ವಾಸಿಗಳು”

7) Thus, reading of the report lodged in this  
case, based on which the case came to be registered and  
criminal law was set on motion, it is clear that no  
allegation is made against this petitioner except stating  
that his followers committed the acts. The said report

does not indicate the presence of this petitioner at the alleged place of incident nor it is alleged that this petitioner in any way instigated or abetted commission of the offence. Reading of the FIR in this case, makes it clear that no offence is made-out against this petitioner. In spite of the same, the respondent-police have proceeded to register the case against this petitioner arraigning him as Accused No.1 and proceeded to investigate the matter.

8) Having regard to the fact that the allegations in the FIR does not make out any offence against this petitioner, he cannot be made liable for the alleged acts said to have been made by his disciples or followers. There cannot be any vicarious liability insofar as the offences under the Indian Penal Code. In this view of the matter, I am of the opinion that the registration of the case as against this petitioner is without jurisdiction and is without any basis, and is abuse of process of Law. Therefore, the FIR as against this petitioner is required to be quashed.

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9) In the result, the petition is allowed. The FIR in Crime No.295/2012 of Bidadi Police Station, Ramanagara District, as against this petitioner arraigned as Accused No.1 is hereby quashed.

Sd/-  
JUDGE

KGR\*