

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 22ND DAY OF JULY, 2015

BEFORE

THE HON'BLE Mr. JUSTICE A.N.VENUGOPALA GOWDA

CRIMINAL PETITION NO : 6054/2014

BETWEEN:

SRI. S.RAGHU, S/o LATE SUBRAMANI,
AGED 44 YEARS,
RESIDING AT NO.11,
ANNAYYAPPA COLONY,
NEW THIPPASANDRA,
BANGALORE – 560075.

..... PETITIONER

(By SRI.VINOD KUMAR.M, ADV.)

AND:

1. STATE OF KARNATAKA
REPRESENTED BY JEEVAN BHEEMA NAGAR
POLICE STATION, BANGALORE,
REPRESENTED BY
THE STATE PUBLIC PROSECUTOR,
HIGH COURT OF KARNATAKA,
VIDHANA SOUDHA,
BANGALORE – 560001.

2. K.SHREEKANTH
SPECIAL EXECUTIVE MAGISTRATE,
C.V.RAMAN CONSTITUENCY,
WARD NO.58, BANGALORE – 560075.

....RESPONDENTS

(By SRI.CHETAN DESAI, HCGP FOR R1)

THIS CRIMINAL PETITION FILED UNDER SECTION 482 CR.P.C BY THE ADVOCATE FOR THE PETITIONER PRAYING THAT THIS HON'BLE COURT MAY BE PLEASED TO QUASH THE ENTIRE PROCEEDINGS IN C.C.NO.50054/2013 (CRIME NO.155/2013) OF JEEVAN BHEEMA NAGAR POLICE STATION, PENDING IN THE FILE OF THE X-ADDL. CHIEF METROPOLITAN MAGISTRATE AT BANGALORE FOR THE OFFENCES P/U/S 171(E) OF IPC R/W 133 OF THE REPRESENTATION OF PEOPLE ACT, 1951.

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

ORDER

Respondent no.2 having lodged a complaint dated 26.04.2013 vide Annexure - 'C', respondent no.1 registered FIR in Cr.No.155/2013 on 26.04.2013. After investigation, charge-sheet was filed on 27.04.2013. Learned Magistrate having taken cognizance for the offence under Section 177 (E) of IPC r/w Section 133 of the Representation of People Act, 1951 has registered C.C.No.50054/2013. Process having been issued to the petitioner, arraigned as accused no.1, this petition was filed seeking quashing of the entire proceedings.

2. Sri.Vinod Kumar.M., learned advocate by placing reliance on the decisions reported in (1996) 11 SCC 557; (2009) 4 KLJ 637; ILR (1979) KAR 2145 and an order dated 05.03.2015 passed in Crl.P.No.1229/2011, contended that the action of the first respondent being illegal, since permission of the Magistrate for taking cognizance of the offence was not obtained, the investigation done being illegal, the charge-sheet filed being ab-initio, interference in exercise of power under Section 482 of Cr.P.C. is called for.

3. Sri.Chetan Desai, learned HCGP was unable to point out the permission, if any, granted under Section 155(2) of Cr.P.C. by the learned Magistrate, to enable the first respondent to conduct the investigation and submit the final report. In the absence of such permission, impugned action of the first respondent being illegal,

learned HCGP was unable to support the initiation of the criminal proceeding against the petitioner.

4. Considered the rival submissions and perused the record.

5. This petition is identical to CrI.P.No.1229/2011 decided on 05.03.2015. The present case, stated supra, being not in dispute, the offences for which the petitioner and others are being prosecuted being non-cognizable, the first respondent has committed illegality in registering the FIR and conducting the investigation and filing the charge-sheet. Learned Magistrate without properly perusing the final report and ignoring the patent illegality committed by the police, has taken cognizance. Hence, the impugned action cannot be sustained in law.

In the result, petition is allowed and the entire proceedings of C.C.No.50054/2013, on the file of 10th A.C.M.M., Bengaluru in respect of all the accused being illegal, is quashed.

**Sd/-
JUDGE**

dh*