IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 19TH DAY OF SEPTEMBER, 2022

BEFORE

THE HON'BLE MR JUSTICE M.NAGAPRASANNA

WRIT PETITION NO. 9520 OF 2022 (GM-RES)

BETWEEN:

SRI SAMIULLA B.,
S/O B.MOHAMMED SHAFI
AGED ABOUT 57 YEARS
R/T NO 6, 2ND FLOOR
APARTMENTS MUNISWAMY GOWDA LAYOUT
KEMPAPURA HEBBAL
BENGALURU – 560 024.

...PETITIONER

(BY SRI.AFSAR AHMED S., ADVOCATE)

AND:

1. STATE OF KARNATAKA
   BY STATION HOUSE OFFICER
   ADUGODI POLICE STATION
   BENGALURU
   REP. BY PUBLIC PROSECUTOR
   HIGH COURT BUILDING
   BENGALURU 560 001.

2. STI MUTTURAJ G.S.,
   AGED ABOUT 39 YEARS
   ADDRESS SHOWN IN THE COMPLAINT
   SWARAJ EXPRES /TTC NEWS
   AND HEERA RETAIL HYDERABD PVT. LTD.,

BENGALURU – 560 095.

…RESPONDENTS

(BY SRI K.S.ABHIJITH, HCGP FOR R1;
R2 - SERVED).

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA READ WITH SECTION 482 OF CR.P.C., PRAYING TO QUASH THE COMPLAINT DTD 11.09.2018 FILED BY R2 TO R1 AT ANNEXURE-C AND THE IMPUGNED FIR REGISTERED IN CRIME NO.235/2018 DTD 11.09.2018 REGISTERED BY THE R1 ADUGODI POLICE STATION, BANGALORE, FOR THE OFFENCE PUNISHABLE U/S 420, 406, 506, 149 OF IPC, BEFORE 4TH ADDL. CMM COURT, BENGALURU AT ANNEXURE-D ONLY TO AN EXTENT OF PETITIONER.

THIS WRIT PETITION COMING ON FOR PRELIMINARY HEARING THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

The petitioner is before this Court calling in question the proceedings in Crime No.235/2018 registered for offences punishable under Sections 420, 406, 506, 149 of the IPC pending before the IV Additional CMM Court, Bengaluru.

2. Heard Sri.Afsar Ahmed.S., learned counsel for petitioner and Sri.K.S.Abhijith, learned High Court Government Pleader for respondent No.1.

3. The 2nd respondent is the complainant. He was an employee of the TTC News Channel. The news channel did not get the benefits or the profit that it was intended to. At that point in time, a notice was issued to all the employees which reads as follows:

> *"The repetitive and recurring losses in our TV channel business have led to the financial crisis in our organization. Unfortunately, the Board of Directors have decided to suspend the operations of this business till further notice. The management, editorial staff and the marketing staff have failed to generate any revenue. We are in the process of looking for the new investing partners. Your all are advised to return the company equipment and devices whichever is in your custody to the General Manager, before 11th Sept 2018. The salaries till 31st August 2018 shall be distributed to the terminated employees and to those employees who has joined or incited the disturbances in the office. The salaries till 10 September 2018 will be distributed to the rest of the other employees in between 20th and 25th October 2018. Whenever we are financially capable to resume the operations, we will be glad to hire you back, if available.*
>
> *Thanking you all for your services,*
>
> *Sincerely,*
>
> *Sd/-*
>
> *Molly Thomas*
>
> *CEO's Private Secretary.*

The notice clearly indicated that the employees will be terminated due to lack of work and funds to run the TV news channel and would be hiring them back if they become financial capable to resume the operations. After the said notice and termination, the subject complaint is filed against the petitioner by the 2nd respondent/complainant alleging that the complainant has been terminated without following due process of law.

4. If the complainant was a workman in the organization and had been terminated without following due process of law, it was open for him to initiate proceedings under the relevant provisions before the appropriate forum, instead the complainant sets the criminal law in motion, that too for the offences under Sections 406 and 420 of the IPC. Both these offences under Sections 406 and 420 of the IPC which deal with criminal breach of trust and cheating which have their ingredients in Sections 405 and 415 of the IPC respectively, cannot be seen to be remotely made out in the case at hand.

5. The case at hand is the one where the termination of the complainant happens pursuant to the losses incurred by the petitioner or the TTC news channel. Therefore, the criminal proceedings to be initiated as an alternate method to arm twist the petitioner instead of knocking the doors of an appropriate Court for an appropriate relief, cannot be permitted to continue, as it would result in abuse of the process of law and miscarriage of justice.

6. For the aforesaid reasons, the following:

ORDER

(i) Writ Petition is allowed.

(ii) Impugned proceedings in Crime No.235/2018 pending before the IV Additional Chief Metropolitan Magistrate, Bengaluru stands quashed qua the petitioner.

Sd/-
JUDGE

BKP
List No.: 1 Sl No.: 311