

**IN THE HIGH COURT OF KARNATAKA
CIRCUIT BENCH AT DHARWAD
DATED THIS THE 31st DAY OF JULY, 2012**

BEFORE

THE HON'BLE MR. JUSTICE ANAND BYRAREDDY

CRIMINAL PETITION No. 10847/2012

BETWEEN:

1. Rajesh, S/o. Subhash Jigajinni
Aged about 25 years
Occ: Student, R/o.Navipeth
Ramdurg, Dist: Belgaum
2. Mahantesh, S/o. Basavaraj Siddibhavi
Aged about 25 years, Occ: Student
R/o. Junipeth, Ramdurg
Dist: Belgaum
3. Basavaraj, S/o. Parashuram Saundatti
Aged about 23 years
R/o.Katti Oni, Saundatti
Dist: Belgaum

...PETITIONERS

(By Sri. H. M. Dharigond, Adv.)

AND:

1. The State of Karnataka
By Ramdurg P.S., Belgaum District
Rep.by Addl. State Public Prosecutor
High Court, Circuit Bench, Dharwad.

2. Sri.Umesh Omprakash Pallod
 Aged about 32 years, Occ: Business
 R/o.Junipet, Ramdurg
 Dist: Belgaum

...RESPONDENTS

(By Sri. Vinayak S.Kulkarni, HCGP for R1)

This Criminal Petition is filed under Section 482 of the Code of Criminal Procedure, 1973, seeking to quash the proceedings in Crime No.198/2010 of Ramdurg P.S. against the petitioners for the offences punishable under Section 379 of the Indian Penal Code, 1860.

This petition coming on for admission this day, the court made the following:

ORDER

Heard the learned Counsel for the petitioners.

The learned Government Pleader is directed to take notice for the respondent.

2. It is the petitioners' case that, the complainant has alleged that his motorcycle was stolen. However, for the reasons best known to the complainant, he has lodged the complaint two months after the alleged loss and the reason for the delay was that, the complainant came to know that the motorcycle, which he had lost, had been recovered by the police and he had learnt through the police that, it was the

petitioners, who were alleged to have committed theft of the same and it is on the basis of such a complaint, that the petitioners have been arrested and a case has been registered against them.

3. The learned Counsel would further submit that, even after two years, there is no charge sheet filed by the police and therefore, on such a nebulous complaint, the petitioners being prosecuted, results in serious hardship to the petitioners. Apart from causing damage to their reputation, as they are students of a reputed college and on account of such a case, their very reputation is at stake, and so on and so forth.

4. Given the primary contention as to the maintainability of the complaint, on the ground that, there is an inordinate delay in the complainant's having come before the Court and that, it is, as if on an after thought, that the complainant has come before the Court and hence, the very case would have no legs to stand and hence, the proceedings would have to be quashed. This is a contention, which is available to the petitioners as their defence at the trial,

namely, that the complaint being belated was fatal to the prosecution and that, no case could be established against the petitioners, in view of such delay.

Therefore, the present petition seeking quashing of the proceedings is not maintainable and is rejected. Insofar as the grievance that, there is a delay in filing of the charge sheet is concerned, it is for the petitioners to approach the Court of Magistrate in that regard to expedite the process.

**Sd/-
JUDGE**

gab/-