

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28TH DAY OF JUNE, 2019

BEFORE

THE HON'BLE MR. JUSTICE JOHN MICHAEL CUNHA

CRIMINAL PETITION No.5796/2015

BETWEEN:

Kallappa Kamballi @ Kalyanakumar
S/o Shivasharanappa Kamballi
Aged about 54 years
Second Division Clerk,
Food Department,
R/o No.11/421/1/G-2,
Samatha Colony, Bramhapura,
Kalaburgi Town – 585102.

...Petitioner

(By Sri. C.D.Nataraj, Advocate for
Sri.Pruthvi Wodeyar, Advocate)

AND:

The State of Karnataka
Represented by Sub Inspector
Saligrama Police Station,
K.R.Nagar Taluk, Mysore District.
Now represented by S.P.P.
High Court Building,
Bangalore – 01.

...Respondent

(By Sri. Vijaya Kumar Majage, Addl.SPP)

This Criminal Petition is filed under Section 482 of Cr.P.C. praying to quash the FIR registered by Respondent – Saligrama P.S., K.R.Nagar, dated 10.08.2015 in FIR/Crime No.131/2015 against the petitioner herein for the offences punishable under Section 25 of the Antiquities and Art Treasures Act, 1972 and Section 420 r/w Section 34 of IPC in the interest of justice and equity.

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

ORDER

Petitioner is aggrieved by the registration of FIR against him for the offence punishable under Section 25 of the Antiquities and Art Treasures Act, 1972 and Section 420 r/w Section 34 of Indian Penal Code.

2. Heard learned counsel appearing for petitioner and learned Additional State Public Prosecutor appearing for respondent-State.

3. Perused the records.

4. The case made out in the complaint is that on receiving credible information that four to five persons were trying to sell old religious book, the Sub-Inspector of Police, Saligrama Police Station, sent two police officials in civil dress and on ascertaining that the said unknown persons were trying to cheat the public on the pretext of selling Quaran, making it to believe that it was 400-500 years old, arrested all the accused persons and seized the book and conducted panchanama.

5. Petitioner herein is shown as accused No.4. Mahazar indicates that the so called Holy book was seized from the possession of accused No.1.

6. Learned Additional State Public Prosecutor submits that during investigation, the said book was sent for examination by the Director of Archaeological Department and it was ascertained that the said book did not fall within the definition of 'antiquity' and 'art treasure' as defined in the Act and therefore, the charge under the provisions of Antiquities and Art Treasures Act, 1972, were dropped and

charge sheet has been laid against the other accused only for the offence punishable under Section 420 r/w Section 34 of IPC.

7. In view of the above facts, the provisions of the Act invoked against the petitioner cannot be sustained. Even otherwise, the proceedings initiated under the said Act appear to be in violation of Section 26 of the Act. As a result, First Information Report registered against the petitioner for the offence under the Act are liable to be quashed.

8. In so far as the offence under Section 420 r/w 34 of IPC is concerned, on going through the averments made in the complaint and the facts recorded in the mahazar, I do not find that the ingredients of the offence punishable under Section 420 r/w 34 of IPC are made out by the prosecution. The narration of events in the FIR indicates that petitioner herein did not induce any person for the purchase of the said Holy book. There are no allegations of any act of deception or cheating by the petitioner

constituting the ingredients of the offence under Section 420 r/w 34 of IPC. Moreover, the main offence itself having not been made out, the offence under Section 420 r/w 34 of IPC also cannot be sustained and as such, the prosecution launched against the petitioner being baseless, it would be a futile exercise to proceed against the petitioner.

9. In the result, petition is allowed. FIR registered against the petitioner in Crime No.131/2015 on the file of Saligrama Police Station, K.R.Nagar, Mysuru, is quashed.

**Sd/-
JUDGE**

Srl.