

IN THE HIGH COURT OF KARNATAKA
DHARWAD BENCH

DATED THIS THE 15TH DAY OF MARCH, 2019

BEFORE

THE HON'BLE MR. JUSTICE H.P. SANDESH

CRIMINAL PETITION NO.101407/2016

BETWEEN:

SRI NANDISH S/O: BASAVANTAPPA YALIGAR
AGE: 39 YEARS, OCC: BUSINESS,
R/O: OPP: URBAN BANK, SHIGGAON,
TQ: SHIGGAON, DIST: HAVERI.

...PETITIONER

(BY SRI. SRINAND A.PACHCHAPURE, ADVOCATE)

AND:

SRI PARAMAGOUDA
VEERANAGOUDA TEMBADAMANI
AGE: 49 YEARS, OCC: AGRICULTURE,
R/O: SNEHA SHREYA NILAY,
NAVANAGAR, SHIGGAON,
TQ: SHIGGAON, DIST: HAVERI.

...RESPONDENT

(BY SRI. PRAVEEN K.UPPAR, HCGP)

THIS PETITION IS FILED UNDER SECTION 482 OF CR.P.C., PRAYING TO QUASH THE ENTIRE PROCEEDINGS IN C.C.NO.451/2016 PENDING ON THE FILE OF COURT OF CIVIL JUDGE AND JMFC, SHIGGAON REGISTERED FOR THE OFFENCE PUNISHABLE UNDER SECTION 138 OF N.I.ACT, ORDER SHEET MARKED AT ANNEXURE-A AND GRANT ANY OTHER RELIEF AS DEEMED FIT IN THE ENDS OF JUSTICE.

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

ORDER

The matter is listed for admission, with the consent of both the parties the matter is taken up for final hearing.

2. The present petition is filed before this Court invoking Section 482 of Cr.P.C. seeking an order to quash the proceedings initiated against the petitioner on the ground that the petitioner has filed the separate complaint against this respondent making an allegation that cheque was stolen and signature of the petitioner is forged. On the said complaint, the matter was investigated and filed the charge sheet and thereafter recorded the evidence of both the parties and on hearing both the parties, the Court below convicted the respondent herein for the offence punishable under Sections 465 and 380 of IPC. The appeal is pending before the Appellate Court.

3. On perusal of the records prima facie, it is clear that the cheque was stolen and forged the signature of the present petitioner and appeal is pending and when such being the matter, the question of continuing the proceedings for the offence under Section 138 of N.I.Act, would amounts to abuse of process and also otherwise miscarriage of justice. When the respondent has been convicted for the offence of steeling the cheque and forging the signature, there is no point in continuing the criminal proceedings against this petitioner.

4. Having taken note of the factual aspects of the case and also the appeal is pending before the Appellate Court, the proceedings initiated against the petitioner can be quashed subject to the result of the criminal appeal.

5. In view of the discussions made above, I pass the following;

ORDER

The petition is allowed.

The criminal proceedings against the petitioner is quashed, if the conviction order is set aside in the appeal, the complainant is having at liberty to restore the complaint.

Sd/-
JUDGE

msr