

113/2020

Sri Aruna Shyam
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IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 2ND DAY OF JANUARY, 2020

BEFORE

THE HON'BLE MR. JUSTICE P.S. DINESH KUMAR

CRIMINAL PETITION No.3165 OF 2019

BETWEEN:

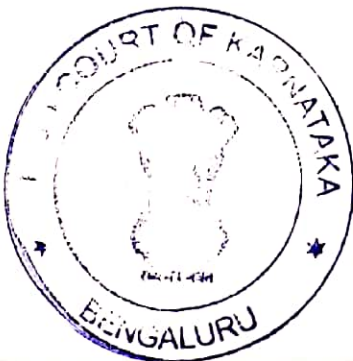
MS. SHARADA D.R
ALIAS SHARADA DIAMOND
D/O RAGHUNATHA A
AGED ABOUT 32 YEARS
RESIDING AT NO.31/A, "CHIGURU"
14TH CROSS, GAYATHRI LAYOUT
K.R.PURAM
BENGALURU-560 036

... PETITIONER

(BY SHRI. M. ARUNA SHYAM, ADVOCATE)

AND:

1. STATE OF KARNATAKA
BY SRIRAMPURA POLICE STATION
REPRESENTED BY THE
PUBLIC PROSECUTOR
HIGH COURT OF KARNATAKA
BENGALURU-560 021
2. MR. J. SARAVANA
MAJOR
COMPLAINANT
RESIDING AT NO.203
4TH MAIN ROAD, SRIRAMPURA
BENGALURU-560 021
3. SHRI. M. SOMANNA
S/O LATE K. MUNISWAMAPPA
AGED ABOUT 58 YEARS
R/AT ASI SRIRAMPURA
POLICE STATION
BENGALURU CITY



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4. SRI. RAVI PATIL
S/O SANGANA GOUDA PATIL
AGED ABOUT 40 YEARS
WORKING AS POLICE INSPECTOR
CENTRAL CRIME BRANCH
BENGALURU

... RESPONDENTS

(BY SHRI. R. SUBRAMANYA, AAG A/W
SMT. K.P. YASHODHA, HCGP FOR R1,
R3 AND R4;
R-2 SERVED)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.P.C., PRAYING TO QUASH THE FIRST INFORMATION REPORT (FIR) AT ANNEXURE A AND ALL SUBSEQUENT CRIMINAL PROCEEDINGS IN CRIME NO.70/2019 AS AGAINST THE PETITIONER FOR THE ALLEGED OFFENCE U/S 66A OF INFORMATION TECHNOLOGY ACT, 2000, REGISTERED BY THE SRIRAMPURA POLICE STATION, PENDING BEFORE THE I ADDITIONAL CHIEF METROPOLITAN MAGISTRATE, BENGALURU, AND ETC.,

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

ORDER

Heard Shri M. Aruna Shyam, learned advocate for the petitioner, Shri R.Subramanya, learned AAG along with Smt. K.P.Yashodha, learned HCGP for the State.

2. Petitioner's grievance is that on 17.04.2019 a complaint against him was registered in NCR. Subsequently, on 25.04.2019, the very same complainant again approached the police. Accordingly,



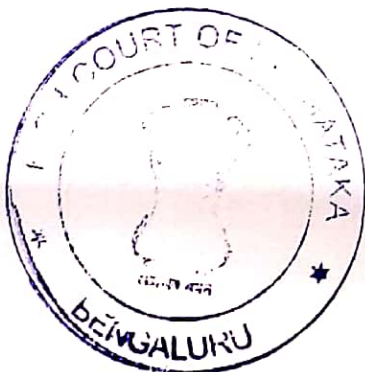
FIR No.70/2019 was registered In Srirampura Police Station, Bengaluru, for the offence punishable under Section 66(A) of Information Technology Act, 2008, which has been stuck down by the Hon'ble Supreme Court of India.

3. Based on the said complaint, investigation was also taken up. On the previous dates of hearing, this Court directed the Officers, who registered the complaint and the one who took up investigation, to file their affidavits.

4. Affidavit filed by Shri Ravi Patil, Police Inspector, read as follows;

"I, Ravi Patil, S/o. Sangana Gouda Patil, aged about 40 years, working as Police Inspector, Central Crime Branch, Bengaluru do hereby solemnly affirm and state on oath as follows:

1. *The Hon'ble High Court of Karnataka vide order dated 19.08.2019 directed me to file affidavit about the registration of the complaint under section 66A of the Information Technology Act 2000 in respect of Crime No.70/2019.*

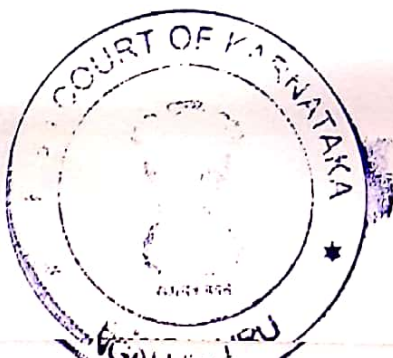


2. *I submit that I was working as Police Inspector of Srirampura Police station when the complainant Sri. J.Saravana had filed the complaint which was registered in Crime No.70/2019.*
3. *I submit that Mr.Somanna had registered the complaint dated 25.04.2019 in Crime No.70/2019 under section 66A of the Information Technology Act, 2000. I submit that I had inadvertently continued with the investigation with respect of the offence punishable under section 66A of the Information Technology Act 2000. I submit that I tender my unconditional apology before this Honourable court and I would also assure that this mistake would not be repeated in future. Hence, explanation submitted herewith may kindly be accepted in the interest of justice."* (sic)

5. Affidavit filed by Shri M.Somanna, Assistant Sub-Inspector of Police, read as follows;

"I, M. Somanna, S/o. Late K.Muniswamappa, aged about 58 years, working as Assistant Sub-Inspector of Police, Srirampura Police Station,, Bengaluru City do hereby solemnly affirm and state on oath as follows:

1. *The Hon'ble High Court of Karnataka vide order dated 19.08.2019 directed me to file affidavit about the registration of the complaint under section 66A of the Information Technology Act 2000 in respect of Crime No.70/2019.*

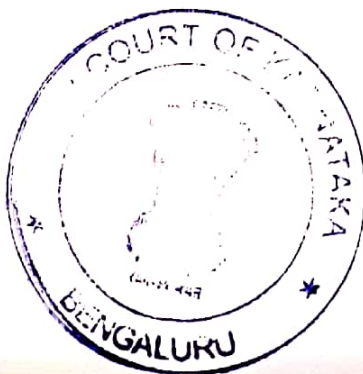


2. *I submit that I had registered the complaint dated 25.04.2019 in Crime No.70/2019 under section 66A of the Information Technology Act, 2000. I submit that I had inadvertently registered the above complaint for offence punishable under section 66A of the Information Technology Act 2000. I submit that I tender my unconditional apology before this Honourable court and I would also assure that this mistake would not be repeated in future. Hence, explanation submitted herewith may kindly be accepted in the interest of justice."* (sic)

6. Shri Subramanya, learned AAG submits that apology tendered by the Police Officers may be accepted.

7. This is a case in which police have initiated criminal proceedings invoking provision of law which is not in the Statute book. Police have initially recorded the complaint as NCR and for reasons best known, the very same officer has registered FIR after one week.

8. The officer who has registered the complaint, Shri M.Somanna, is present before the Court.

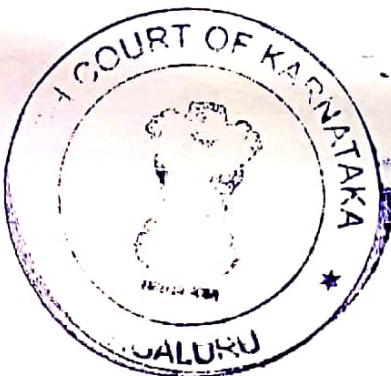


He submits that he has registered the complaint due to Inadvertence.

9. It is relevant to note that he is the very same officer, who treated the complaint as non-cognizable and registered as NCR on 17.04.2019 and also registered FIR No.70/2019 on 25.04.2019. This is nothing but a clear abuse of process of law and harassment to citizen. In the circumstances, the following;

ORDER

- (i) Petition is **allowed**;
- (ii) FIR No.70/2019 registered in Srirampura Police Station, Bengaluru, is quashed;
- (iii) Respondents No.3 and 4 namely, Shri M.Somanna and Shri Ravi Patil, Police Officers, are directed to pay a cost of Rs.10,000/- each (Rupees Ten Thousand each) payable to the Registrar General, High Court of Karnataka, Bengaluru, within four weeks from the

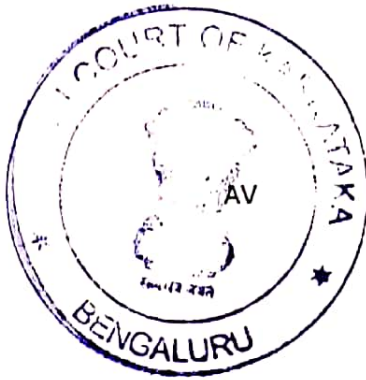


date of receipt of a copy of this order;

and

- (iv) Registrar General shall report the receipt of the said amount to the Court on its receipt.

No costs.



Sd/-
JUDGE

'TRUE COPY'

Y. D. Singh
16/11/2020
Section Officer,
High Court of Karnataka
Bangalore - 560 001

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a) The date on which the application was made 3/11/2020
b) The date on which charges and costs are called for
c) The date on which charges and costs are deposited/Paid
d) The date on which the copy is ready for delivery 16/11/2020
e) The date of notifying that the copy is ready to appear on or before 16/11/2020
f) The date on which the copy is submitted by the Applicant 20/11/2020
g) Submitted by *Y. D. Singh*