

Anil Rajan Nair vs The State Of Karnataka on 11 February, 2019

Author: Aravind Kumar

Bench: Aravind Kumar

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IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 11TH DAY OF FEBRUARY, 2019

BEFORE

THE HON'BLE MR. JUSTICE ARAVIND KUMAR

CRIMINAL PETITION NO.8348 OF 2018

BETWEEN:

Anil Rajan Nair,
S/o AS Rajan,
Aged 49 years,
House No.#802,
Garden Gate Apartments,
Maveli Road, Gandhinagar,
Kadavanthara Post,
Cochin,
Ernakulam District, Kerala State,
Pin-682 020.

... PETITIONER

(By Sri. John Mathew, Advocate on behalf of
Smt. Seema Sudheendran C.K., Advocate)

AND:

1. The State of Karnataka,
Cyber Crime Police Station,
CID Annexed Building,
Carlton House, #1, Palace Road, Bengaluru
Pin-560 001.
Represented by S P P,
High Court Building,
Bengaluru-01.
2. LIS Education and Charitable Trust,
3367 D, HAL II Stage

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13th Main, Indiranagar,
Bengaluru-8, Represented by its Manager,
Mani P Nair. ... RESPONDENTS

(By Sri. S.Chandrashekaraiah, HCGP)

This Criminal Petition is filed u/s.482 of Cr.P.C
praying to set aside the impugned order dated 05.10.2007
in C.C.No.2554/2009, passed by the 1st ACMM, Bengaluru
against the petitioner by holding that the impugned order
in question is bad for the non issuance of statutory notice
or summons to the petitioner under the due process of
law.

This petition coming on for Admission this day, the
Court made the following:

ORDER

Heard Sri John Mathew, learned counsel appearing for the petitioner and Sri S. Chandrashekaraiah, learned HCGP appearing for the State.

2. This is a classic case where an accused is able to successfully put spokes in speedy disposal of a criminal case and also ensure that justice is not delivered speedily. The facts narrated hereinbelow is a mirror to this fact.

Petitioner herein has been arraigned as accused in Cyber Crime No.16/2006 and came to be enlarged on bail by the learned Magistrate way-back on 15.06.2007 by a conditional order which reads as under:

" The accused is released on bail by executing P/B for Rs.25,000. The Learned counsel has filed the petition u/s.445 Cr.PC. Permitted to deposit cash security of Rs.10,000. The accused shall not commit similar offence.

He shall co-operate with the investigation officer in the investigation work.

He shall not treat the prosecution witnesses directly or indirectly. He shall give the attendance to Dy.S.P. Cyber crime of COD once in a month of the last Sunday until further of the court."

Alleging that the petitioner had not co-operated with the Investigating Agency, the Deputy Superintendent of Police, Cyber Crime, through Public Prosecutor filed a petition for cancellation of bail granted to accused i.e., petitioner herein. As could be seen from the proceedings of the Trial Court, proceedings came to be adjourned to 27.09.2007 and thereafter to 01.10.2007 (Order Sheet is not clear). To consider the say of the accused, non- bailable warrant came to be issued against the accused on 05.10.2007 as he had remained absent. It is apt and appropriate to note at this juncture itself that application filed by the prosecution for cancellation of the bail has not been allowed or disposed of. In other words, to hear the accused on said application, NBW came to be issued against the petitioner. Even after eleven years of said NBW issued, it is yet to be executed and petitioner has been successful in dodging to appear before the Court and it is because of this precise reason this Court has been per- forced to make the observation herein above that the petitioner has been successfully dragging on the proceedings for the past eleven years. At this length of time, the petitioner has sought for quashing of the order dated 05.10.2007 whereunder NBW has been issued against him.

3. In view of the fact that application filed by the prosecution has not yet been disposed of or no order has been passed cancelling the bail granted to petitioner on 15.06.2007, it is open to the petitioner to approach the trial court for appropriate relief either to seek for recall of the warrant or to file objections to said application. Without taking such recourse, petitioner has sought to invoke the extra-ordinary jurisdiction of this Court, praying for quashing of the proceedings and for setting aside the order dated 05.10.2007.

4. In the light of afore-stated facts, this Court is of the considered view that there is no merit in the contentions raised by the learned counsel appearing for the petitioner and petition is liable to be dismissed at the threshold itself and accordingly it is dismissed.

However, it is made clear that if petitioner approaches the Trial Court with appropriate application for recall of warrant, trial court shall consider the same without being influenced by its earlier order or the order passed by this Court and it shall ensure that petitioner would co-operate with the trial court for expeditious disposal of the proceedings and at any rate within one month from the date of receipt of a certified copy of this order.

Registry is directed to communicate this order to the jurisdictional Court forthwith, by deputing special messenger and by e-mail.

I.A. 1/18 for stay does not survive for consideration and it is accordingly disposed of.

SD/-

JUDGE sac*