

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 29TH DAY OF MAY 2012

BEFORE

THE HON'BLE MR.JUSTICE N. ANANDA

CRIMINAL PETITION No.250/2011

BETWEEN:

1. Smt.Fameedunnissa
D/o late Abdul Hakeem
Aged about 25 Years.
2. Smt.Azeezunnissa
W/o late Abdul Hakeem
Aged about 56 Years.
3. Sri Muneer Ahmed
S/o late Abdul Hakeem
Aged : Major.
4. Sri Mustaq Ahined
S/o late Abdul Hakeem
Aged : Major.

All the petitioners
R/at No.15, 'F' Cross Road
Bismilla Nagar
Bannerghatta Road
Bangalore - 560 029.

5. Sri Basheer Ahmed
S/o late Abdul Hakeem
Aged : Major
R/at No.947
K.G.F., Kolar.

... Petitioners

(By Sri Arun Shyam M., Advocate for M/s.Dharmashree Associates, Advocates)

AND:

1. Sri Ejaj Ahmed
S/o late M.A.Samad
Aged about 26 Years
R/at D.No.3436
2nd Cross, Robertsonpet
K.G.F.
2. State of Karnataka
Rep. by
Station House Officer
Bangarpet Police Station
Bangarpet, Kolar District.
Rep. by State Public Prosecutor. ... Respondents

(By Sri Vijaykumar Majage, HCGP for R1; Sri S.Jagan Babu, Advocate for R2)

This petition is filed under section 482 Cr.P.C., praying to quash the order dated 08.12.2010 taking cognizance and registration of a case in for offences punishable under sections 323, 324 and 504 IPC and the entire proceedings in C.C.No.409/2010 on the file of the Civil Judge (Sr. Jn.) and Principal JMFC, K.G.F and all further proceedings pursuant thereto and etc..

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

ORDER

The petitioner has called into question the order of issuance of process in C.C.No.409/2010.

2. Heard the learned counsel for petitioner.

3. After going through the impugned order, I find that the learned Magistrate instead of recording sworn statement of complainant as provided under Section 200 Cr.P.C., has received the affidavits of complainant and his witness.

4. The law is fairly well settled that sworn statement of complainant has to be recorded unless production of affidavit in lieu of sworn statement is permitted by any law.

5. The offences alleged against accused are punishable under Sections 323, 324, 504 and 506 IPC. In the circumstances, the learned Magistrate should have followed the procedure contemplated under Section 200 Cr.P.C. As the learned Magistrate has not recorded the sworn statement of complainant in terms of Section 200 Cr.P.C., the order of

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issuance of process under Section 204 Cr.P.C., cannot be sustained.

6. Therefore, the petition is accepted. The impugned order is set aside. The matter is remanded to the learned Magistrate to proceed with the case from the stage of presentation of complaint in accordance with law.

Sd/-
JUDGE

Np/-