

Sunil Gangadhar Karve

v.

State of Maharashtra & Others

(Supreme Court Of India)

HON'BLE MR. JUSTICE H.L. GOKHALE HON'BLE MR. JUSTICE
KURIAN JOSEPH

Writ Petition (Criminal) No. 26 Of 2014 | 11-02-2014

1. Heard Mr. Mukul Rohatgi, learned Senior Counsel appearing for the petitioner in support of this writ petition. This writ petition is filed with lots of agony and it is submitted that in spite of an order passed by this Court on 22-11-2013 in Sunil Gangadhar Karve v. Chagan Chandrakant Bhujbal SLPs (Cri) Nos. 4264-66 of 2013, order dated 22-11-2013 (SC) recording the willingness of the State of Maharashtra that the complaints lodged by the petitioner will be looked into in the light of the law laid down by this Court in Lalita Kumari vs. State of U.P., (2014) 2 SCC 1 : (2014) 1 SCC (Cri) 524, the appropriate order is not passed.

2. The petitioner contends that he has lodged serious complaints with respect to various offences against Respondents 8 to 13 with the authorities of the police in Mumbai and since no appropriate action was being taken he went to the High Court earlier. It was submitted by the State before the High Court that the matter had to be proceeded under the Bombay Public Trust Act. Respondent 8 and his family member were allowed Sunil Gangadhar Karve vs. State of Maharashtra, Criminal Application No. 365 of 2012 in WP (Cri) No. 1608 of 2012, order dated 10-4-2013 (Bom) to intervene in the matter. That order passed by the High Court was set aside by this Court by its order dated 22-11-2013 (supra). The order passed by this Court recorded that the four complaints made by the petitioner dated 1-2-2012, 2-2-2012, 15-2-2012 and 2-3-2012 will be gone into and the police officer concerned will take decision on those complaints in the light of the law laid down by this Court in Lalita Kumari v. State of U.P. (supra).

3. We are informed that thereafter an order has been passed by a Senior Inspector of Police, Economic Offences Wing dated 16-1-2014 which

essentially records whatever are the grievances of the petitioner in substance, but ultimately holds that this enquiry has not disclosed the commission of any cognizable offence which requires further action through the office concerned and hence the enquiry was closed. Mr. Rohatgi learned Senior Counsel submits that it is therefore that the present writ petition has been filed invoking jurisdiction of this Court under Article 32 of the Constitution. He stresses the first two prayers of this writ petition. Prayer (a) is to quash and set aside the aforesaid decision and Prayer (b) is to direct the investigation to be conducted by CBI. This is basically because as stated by the petitioner, the accused concerned are quite powerful and therefore it is necessary that the complaints be investigated by an agency other than the investigating agency of the State of Maharashtra. This is stressed particularly on the background of the order that has been passed by the police officer concerned.

4. We have noted this submission of Mr. Rohatgi. There are, however, two difficulties in his way. Firstly, that if the police officers decline to look into the complaint, the ordinary procedure under the Criminal Procedure Code is available to the complainant as held by a Bench of three Judges of this Court in *Aleque Padamsee v. Union of India* (2007) 6 SCC 171 : (2007) 3 SCC (Cri) 1. Besides, apart from the rights of the complainant, the rights of the accused also have to be safeguarded, and the accused has a right of appeal against any such determination if the complainant chooses to approach the Magistrate concerned. The right of appeal has been held to be a very important right of the accused by this Court in *A.R. Antulay v. R.S. Nayak* (1988) 2 SCC 602 : 1988 SCC (Cri) 372.

5. That apart the two prayers which the petitioner is seeking are prayers which can be gone into by the High Court and there is no reason why such prayers should not be pressed before the High Court under Article 226 of the Constitution. Having noted this position, Mr. Rohatgi has stated that he is not pressing this petition any more. He states that he is seeking to withdraw this writ petition, and that the petitioner will move the Bombay High Court for appropriate relief. He makes a further request that in the event such a petition is filed, the same may be taken up at the earliest for consideration. We are sure that the High Court will do the needful in that manner.

6. The writ petition is, therefore, dismissed as not pressed

