

2022 SCC OnLine Kar 660

In the High Court of Karnataka<sup>1</sup>  
(BEFORE M. NAGAPPASANNA, J.)

Rajkumar ... Petitioner;  
*Versus*

State of Karnataka, by Police Inspector, rep. by State Public  
Prosecutor and Another ... Respondents.

Criminal Petition No. 6118 of 2021<sup>1</sup>

Decided on March 23, 2022

Advocates who appeared in this case:

Sri M.R.C. Manohar., Advocate (Physical Hearing)

Smt. K.P. Yashodha, HCGP for R1 (Physical Hearing)

R2 is Served and Unrepresented

The Order of the Court was delivered by

M. NAGAPPASANNA, J.:— The petitioner is before this Court calling in question the proceedings in C.C. No. 3658/2020, pending on the file of the Civil Judge and JMFC, Devanahalli, Bengaluru, registered for the offences punishable under Section 370 of the IPC.

2. Brief facts leading to the filing of the present petition, as borne out from the pleadings, are as follows:

It is alleged that on 20.07.2019, when the Assistant Immigration Officer at Bangalore International Airport was on duty in the departure wing of the airport noticed 3 Indian nationals, who were intending to travel to Kaula Lumpur by an Indigo flight. They were checked and questioned. While questioning it came to light that they were all traveling in a group and were accompanied by another passenger by name Rajkumar - the petitioner. On further questioning, it is the case of the complainant that the passengers reveal the fact that they were being taken by the petitioner to Kula Lumpur for employment purposes on tourist VISAs. It was also informed that the petitioner was introduced to them by another agent named Kiran, based in Amritsar. Few of the persons who were questioned also indicated that they have paid some amounts to Rajkumar and others. Based upon the aforesaid interrogation and incident, a complaint came to be registered against the petitioner for offence punishable under Section 370 of the IPC and the case is now C.C. No. 3658/2020 for offence punishable under Section 370 of the IPC. Since the issue springs from the complaint, the complaint requires to be noticed:

*"Subject : For investigation and initiating suitable action against one Indian national namely RAJ KUMAR S/O LATE KARAM CHAND who was intercepted for illegal Human trafficking of 03 Indian nationals.*

*On July 20, 2019, when Shri Rahul Kumar, Assistant Immigration Officer was on duty in the departure wing, the following 03 Indian nationals who were intending to travel to Kuala Lumpur by Indigo Plight 6E-1813, were referred by the Counter Officers for secondary profiling.*

SI	NAME	PASSPORT NO
01	RANJIT SINGH	S7043244
02	MANKARAN SINGH	N4023633
03	DA VINDER SINGH	R0199767

*During their profiling it was found that all of them were travelling in a group and*

were accompanied by another passenger name RAJ KUMAR (PP NO. S0482497). Further, the profiling of three passengers revealed that they were being taken by RAJ KUMAR to Kuala Lumpur for employment purposes/petty jobs on tourist visas. They also told that RAJ KUMAR was introduced to them by another agent named 'KIRAN', based in Amritsar While MANKARAN SINGH claims to have paid Rupees 30000.00 in case RAJ KUMAR. at his residence, Ranjit Singh claims to have transferred Rs. 50000.00 into the account of one 'Sheetal Vohra' on July 18, 2019. Davinder Singh claims to have transferred Rs. 20000.00 into the account of one 'Gurbhej Singh' on July 15, 2019 and Rs. 30000.00 in cash to agent 'Kiran' on July 18, 2019.

It was also learnt that the above mentioned three passengers were introduced to Raj Kumar at Amritsar Bus Stand by agent Kiran on the night of July 19, 2019, assuring them that he would guide and accompany them to Kuala Lumpur. They reached Delhi in the morning on July 20, 2019 and boarded Indigo Flight No. 6E-2423 for Bangalore.

It is requested that necessary suitable action against Raj Kumar be initiated as he has been alleged by the three passengers to be acting as a earner and hence indulging in illegal human trafficking."

3. The police, after investigation, have also filed a charge sheet, summary of which reads as follows:

"ಈ ದೋಷಾರೋಪಣಾ ಪಟ್ಟಿಯ ಕಾಲಂ ನಂ.4ರಲ್ಲಿ ನಮೂದಿಸಿರುವ 1 ಆರೋಪಿತನು ಸಾಕ್ಷಿ-6, ಸಾಕ್ಷಿ-7 ಮತ್ತು ಸಾಕ್ಷಿ-8 ರವರಿಗೆ ಮಲೇಶಿಯಾದ ಕೌಲಾಲಂಪುರದಲ್ಲಿ ಉದ್ಯೋಗ ಕೊಡಿಸುವುದಾಗಿ ಹೇಳಿ ಅವರುಗಳನ್ನು ದಿ:20.7.2019 ಅಮೃತಸರದಿಂದ ಬೆಂಗಳೂರಿಗೆ ಕರೆದುಕೊಂಡು ಬಂದು, ಬೆಂಗಳೂರು ಏರ್‌ಪೋರ್ಟ್‌ನಿಂದ ಫ್ಲೈಟ್ ನಂ.6ಈ1813 ರಲ್ಲಿ ಮಲೇಶಿಯಾದ ಕೌಲಾಲಂಪುರಕ್ಕೆ ಟೂರಿಷ್ಟ ವೀಸಾದಡಿಯಲ್ಲಿ ಉದ್ಯೋಗಕ್ಕಾಗಿ ಮಲೇಶಿಯಾಗೆ ಕರೆದುಕೊಂಡು ಹೋಗುವ ಉದ್ದೇಶದಿಂದ ಕಾನೂನು ಬಾಹಿರವಾಗಿ ಮಾನವಕಳ್ಳಸಾಗಾಣಿಕೆ ಮಾಡಲು ಪ್ರಯತ್ನಿಸಿರುವುದಾಗಿ ತನಿಖೆಯಿಂದ ದೃಢಪಟ್ಟಿರುತ್ತದೆ. ನೊಂದ ವ್ಯಕ್ತಿಯಾದ ಮನ್‌ಕರ್‌ಸಿಂಗ್ ರವರ ಹೆಸರಿನಲ್ಲಿರುವ ಮಲೇಶಿಯಾದ ಟೂರಿಷ್ಟ ವೀಸಾ ಇಎನ್‌ಟಿಆರ್‌ಐ ಸಿರಿಯಲ್ ನಂ.ಇಎನ್-4783156 ರ ದೃಢೀಕೃತ ಪ್ರತಿ, ಆಡರ್ ಐಡಿ ನಂ.180795011026, ಇಂಡಿಗೋ ಫ್ಲೈಟ್ ನಂ.6ಎಫ್-1813 ರ ಟಿಕೆಟ್ ಕನ್‌ಫರ್ಮೇಷನ್ ಡಿಟೈಲ್ಸ್‌ನ ದೃಢೀಕೃತ ಪ್ರತಿ, ಹೊಟೆಲ್ ಬುಕ್ಯಿಂಗ್ ಕನ್‌ಫರ್ಮೇಷನ್ ನಂ.2900.765.798ರ ದೃಢೀಕೃತ ಪ್ರತಿ, ದೆಹಲಿಯಿಂದ ಬೆಂಗಳೂರಿಗೆ ಪಡೆದಿರುವ ಇಂಡಿಗೋ ಏರ್‌ಲೈನ್ಸ್‌ನ ಫ್ಲೈಟ್ ನಂ.6ಇ2423ರ ಬೋರ್ಡಿಂಗ್ ಪಾಸ್‌ನ ಅಸಲು, ಬೆಂಗಳೂರಿನಿಂದ ಕೌಲಾಲಂಪುರಕ್ಕೆ ಪ್ರಯಾಣಿಸಲು ಪಡೆದಿರುವ ಇಂಡಿಗೋ ಏರ್‌ಲೈನ್ಸ್‌ನ ಫ್ಲೈಟ್ ನಂ.6ಇ2423ರ ಬೋರ್ಡಿಂಗ್ ಪಾಸ್‌ನ ಅಸಲು ಹಾಗೂ ಮನ್‌ಕರ್‌ಸಿಂಗ್ ರವರ ಹೇಳಿಕೆಯ ಅಸಲು ಆರೋಪಿತ ಎ1 ರಾಜ್‌ಕುಮಾರ್ ಈತನು ಕಲಂ:370 ಐಪಿಸಿ ರೀತ್ಯಾ ಶಿಕ್ಷಾರ್ಹ ಅಪರಾಧವೆಸಗಿರುವುದು ತನಿಖೆಯಿಂದ ಸಾಬೀತಾಗಿರುತ್ತದೆ.

ಆದ್ದರಿಂದ ಆರೋಪಿತನ ವಿರುದ್ಧ ಮೇಲ್ಕಂಡ ಕಲಂ ಪ್ರಕಾರ ದೋಷಾರೋಪಣಾ ಪಟ್ಟಿ."

4. What can be gathered from the complaint and the charge sheet that is filed by the police is that, it is presumed that the petitioner had indulged himself in human trafficking and therefore, Section 370 of the IPC was invoked against the petitioner. Section 370 of the IPC deals with trafficking of a person and has manifold ingredients.

Section 370 of the IPC reads as follows:

*"370. Trafficking of person.-(1) Whoever, for the purpose of exploitation, (a) recruits, (b) transports, (c) harbours, (d) transfers, or (e) receives, a person or persons, by-*

*First.-using threats, or*

*Secondly-using force, or any other form of coercion, or*

*Thirdly.-by abduction, or*

*Fourthly.-by practising fraud, or deception, or*

*Fifthly.-by abuse of power, or*

*Sixthly.-by inducement, including the giving or receiving of payments or benefits, in order to achieve the consent of any person having control over the person recruited, transported, harboured, transferred or received, commits the offence of trafficking.*

*Explanation 1.-The expression "exploitation" shall include any act of physical exploitation or any form of sexual exploitation, slavery or practices similar to slavery, servitude, or the forced removal of organs.*

*Explanation 2.-The consent of the victim is immaterial in determination of the offence of trafficking.*

*(2) Whoever commits the offence of trafficking shall be punished with rigorous imprisonment for a term which shall not be less than seven years, but which may extend to ten years, and shall also be liable to fine.*

*(3) Where the offence involves the trafficking of more than one person, it shall be punishable with rigorous imprisonment for a term which shall not be less than ten years but which may extend to imprisonment for life, and shall also be liable to fine.*

*(4) Where the offence involves the trafficking of a minor, it shall be punishable with rigorous imprisonment for a term which shall not be less than ten years, but which may extend to imprisonment for life, and shall also be liable to fine.*

*(5) Where the offence involves the trafficking of more than one minor, it shall be punishable with rigorous imprisonment for a term which shall not be less than fourteen years, but which may extend to imprisonment for life, and shall also be liable to fine.*

*(6) If a person is convicted of the offence of trafficking of minor on more than one occasion, then such person shall be punished with imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and shall also be liable to fine.*

*(7) When a public servant or a police officer is involved in the trafficking of any person then, such public servant or police officer shall be punished with imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and shall also be liable to fine."*

5. A reading of the afore-quoted provision would reveal that the soul of the provision is exploitation. There is no allegation in the complaint made by any victim alleging exploitation by the petitioner. The complaint, investigation and wavering statements of the persons, who accompanied the petitioner created suspicion in the mind of the Immigration Officer. The suspicion was on account of the statement of handing over of some cash to the petitioner by the people who accompanied him. This cannot in my considered view, be enough circumstance to prosecute the petitioner for offence punishable under Section 370 of the IPC for human trafficking.

6. If any further proceedings are permitted to be continued in the case at hand, it would become an abuse of the process of law and result in miscarriage of justice. It is settled principle that in the logical end, if the petitioner would be acquitted for want of

evidence, that would be an appropriate case where this Court would in exercise of its inherent jurisdiction under Section 482 of Cr.P.C., obliterate such proceedings. The case at hand is one such case.

7. For the aforesaid reasons, I pass the following:

**ORDER**

- (i) The criminal petition is allowed.
- (ii) The proceedings in C.C. Nos. 3658/2020, pending on the tile of the Civil Judge and JMFC, Devanahalli, Bengaluru, stand quashed.

————

<sup>†</sup> Principal Bench at Bengaluru

<sup>‡</sup> This Criminal Petition is filed under Section 482 of Cr.P.C praying to quash the entire proceedings in C.C. No. 3658/2020 registered by the Kempegowda International Airport Police Station, Bangalore for the offences P/U/S 370 of IPC and the case is now pending on the files of Civil Judge and JMFC, Devanahalli, Bangalore Rural District.

Disclaimer: While every effort is made to avoid any mistake or omission, this casenote/ headnote/ judgment/ act/ rule/ regulation/ circular/ notification is being circulated on the condition and understanding that the publisher would not be liable in any manner by reason of any mistake or omission or for any action taken or omitted to be taken or advice rendered or accepted on the basis of this casenote/ headnote/ judgment/ act/ rule/ regulation/ circular/ notification. All disputes will be subject exclusively to jurisdiction of courts, tribunals and forums at Lucknow only. The authenticity of this text must be verified from the original source.