

**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

DATED THIS THE 28<sup>TH</sup> DAY OF JUNE, 2022

BEFORE

THE HON'BLE Mr. JUSTICE HEMANT CHANDANGOUDAR

**CRIMINAL PETITION No.7589/2019**

**BETWEEN:**

1. P.N.CHANDRASHEKAR

2. DEEPAK

3. VIJAY RAJU

4. SHIVAMURTHY

5. DEVEGOWDA

6. JAYAPRAKASH

7. CHIKKEGOWDA

...PETITIONERS

(BY SRI.GIREESHA J T, ADVOCATE)

**AND:**

STATE OF KARNATAKA  
BY CUBBON PARK POLICE STATION  
REP. BY SPP  
HIGH COURT BUILDING  
BANGALORE - 560 001

...RESPONDENT

(BY SRI.S.VISHWAMURTHY, HCGP )

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.P.C. PRAYING TO QUASH THE ENTIRE PROCEEDINGS IN S.C.NO.563/2018 ON THE FILE OF THE XLV ADDITIONAL CITY CIVIL AND SESSIONS JUDGE AT BENGALURU CCH- 46 FOR THE OFFENCE PUNISHABLE UNDER SECTIONS 370(3), 370A(2), 294, 109 OF IPC.

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

**ORDER**

FIR was lodged by the Sub-Inspector, Cubbon Park Police Station alleging that on 09.05.2016 on receiving credible information that the accused persons have brought girls from different parts of the country, are influencing them to dance in an indecent manner and the customers are throwing money on the said girls. He and the other Police Personnel conducted raid on the Brigade Blues Bar and Restaurant and it was found that the girls were dancing in an indecent manner and the customers were throwing money on them. It is further alleged that accused No.1 is the cashier/partner of the bar and restaurant, accused No.2 is a person who would supply material necessary for ladies, accused No.3 is the person who receives the order, accused No.4 is the bar man and accused No.5 is the waiter.

2. The Police after investigation submitted the charge sheet for the offences punishable under Sections 370(3), 370A(2), 294 and 109 of IPC.

3. The learned Magistrate after accepting the charge sheet took cognizance of the aforesaid offences and issued summons. Taking exception to the same, this petition is filed.

4. Learned counsel appearing for the petitioners submits that the offences alleged against the petitioners in the charge sheet are cognizable and as such the Police before conducting the investigation were required to register the FIR. However, in the present case, the Police have conducted the investigation without registering FIR against the petitioner-accused and the same is without authority of law in view of the decision of the Apex Court in the case of ***Lalitha Kumari vs. Government of Uttar Pradesh and others.***<sup>1</sup>

5. On the other hand, learned HCGP appearing for the State submits that the charge sheet material discloses that the petitioners-accused have committed the aforesaid offences and the learned Magistrate has rightly taken

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<sup>1</sup> (2014) 2 SCC 1

cognizance of the aforesaid offences and sought for dismissal of the petition.

6. I have considered the submissions of the learned counsel for the parties.

7. The offences alleged against the petitioners are cognizable. The Hon'ble Apex Court in **Lalitha Kumari's** case has held that conducting an investigation into an offence after registration of FIR under Section 154 of Code of Criminal procedure is the procedure established by law and thus is in conformity with Article 21 of the Constitution of India. Accordingly, the right of the accused under Article 21 of the Constitution is protected, if the FIR is registered first and then the investigation is conducted in accordance with the provisions of law. In the present case, no explanation is offered stating that due to exigency the FIR was not registered before conducting the raid. Hence the registration of FIR after conducting the raid is not permissible in law. Accordingly, I pass the following:

**ORDER**

- i) Criminal petition is allowed.
- ii) The impugned proceeding in S.C.No.563/2018 pending on the file of XLV Addl. City Civil and Sessions Judge, Bengaluru city is hereby quashed.

AKC

**Sd/-  
JUDGE**