

Order is pronounced.

ORDER

After hearing the learned counsel for the petitioner, I have perused the case records.

2. This petition is filed along with an application U/Sec.397(1) of the Cr.P.C. seeking the stay of the impugned proceedings initiated u/sec. 55 of the Karnataka Police Act under the impugned notice dated 10-04-2024 issued by the Sub-Divisional Magistrate, Chikkodi (trial court) in MAG/GADIPARU/CR No.07/2024-25, whereby the petitioner has been directed to appear in connection with the proceedings initiated U/Sec.55 of the Karnataka Police Act.

3. During the course of arguments, the learned counsel for the petitioner has placed reliance upon the following decisions:

- i) **ILR 1987 KAR 2326 (Anjanappa V/s State of Karnataka and another)** wherein our Hon'ble High Court has held that the explanation to Sec. 397(1)

of the Cr.P.C. provides that all magistrate whether Executive or Judicial and whether exercising the original or appellate jurisdiction shall be deemed to be inferior to the Sessions Judge for the purpose of Sec. 397 (1) and 398 of the Cr.P.C.

ii) **(1988) CRI.LJ 246 (Ambadas and others V/s State of Karnataka and another)** wherein our Hon'ble High Court has held that there is no bar against the court interfering with such order of externment in the circumstance enumerated in Sec. 60 of the Karnataka Police Act where the procedure laid down in Sec. 58(1) is not followed and when there is no material before the authority concerned upon which it could have based its order and where the authority making the order is not of the opinion that witnesses were not willing to come forward to give

evidence in public against the persons
in respect of whom, an order is made
u/sec. 55 of the K.P. Act.

4. On perusal of the impugned notice and materials available, it is noticed that the deadline for appearance of the petitioner before the trial court is 15.04.2024. The learned counsel for the petitioner submitted that only on the basis of report of the police, the trial court has initiated the impugned proceedings. It is relevant to mention that mere apprehension of the police is not enough for passing the order of externment. In the case in hand, it appears that the impugned proceedings have been initiated and notice has been issued only on the report of the police. It is found that the impugned proceedings initiated under the impugned notice need to be stayed till disposal of this case. Hence, the application seeking stay is hereby allowed.

Therefore, the impugned proceedings under impugned notice are hereby stayed till disposal of this case.

CRP NO. 5064/2024

5. The office of this court is directed to communicate this order to the trial Court forthwith and issue notice to the respondent, if P.F. is paid and call for T.C.R. Call on 31.05.2024.

(Dictated to the Typist directly over the computer and typed by him, corrected and signed by me and then pronounced in the Open Court on this the 24th day of April 2024)

(S. L. CHAVHAN)
VII Addl. District & Sessions Judge,
Belagavi, Sitting at Chikkodi.