

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL PETITION No. 2272 of 2015

ORDER :

The petitioners, who are accused Nos. 1, 2 & 4 in Crime No.126 of 2013 of Ghatkesar Police Station, Cyberabad, filed the present application under Section 438 Cr.P.C. seeking release in the event of their arrest in connection with the above crime registered against the petitioners and others for the offences punishable under Sections 354, 384, 450 and 506 IPC.

The case of the prosecution is as under:

Originally a private complaint was filed under Section 200 Cr.P.C. which was referred to police under Section 156(3) Cr.P.C. for investigation. The averments in the report are that on 31.03.2013 when the informant and her husband were not at home, A.1 to A.7 along with ten others are alleged to have forcibly entered into her house, behaved with her daughter indecently by touching her private parts and dragged her out of the house by catching hold of her tuft. A.1 to A.7 are also alleged to have taken away four tulas of gold and cash of Rs.2 lakhs from the house of the informant and while leaving the place proclaimed that they would see the end of the informant and her family members. A.3 and A.4 are alleged to have beaten the mother-in-law of the informant. Basing on these allegations, the above case came to be registered.

Learned counsel for the petitioners mainly submits that there are disputes between the parties and because of those disputes, the present report came to be lodged against the petitioners. Learned Additional Public Prosecutor and the counsel who impleaded on behalf of the informant opposed the application.

Originally a private complaint was filed under Section 200 Cr.P.C. which was referred to police under Section 156(3) Cr.P.C. for investigation and the same came to be registered as a case in Crime No. 126 of 2013 of Ghatkesar Police Station, Cyberabad. Pending investigation into the matter, the informant filed W.P.No.19443

of 2014 before this Court seeking issuance of a writ of mandamus to direct the S.H.O., P.S. Ghatkesar to file a report in connection with Crime No.126 of 2013. By an order dated 15.09.2014, this Court passed the following order:

“This Petition is filed seeking a writ of mandamus for directing the 4th respondent Station House Officer, Ghatkesar Police Station to file, as expeditiously as is possible, the final report in Crime No. 126 of 2013, before the Magistrate concerned.

On 04.01.2013, the writ petitioner has lodged a complaint before the XIII Metropolitan Magistrate, Ranga Reddy at L.B. Nagar, under Section 200 of the Code of Criminal Procedure, which has been referred under Section 156(3) of the Code, for registration and investigation and it was ultimately, registered by the police as F.I.R.No. 126 of 2013 on 04.04.2013. The complaint discloses commission of cognizable offences. The Sub-Inspector of Police, Ghatkesar Police Station, on 26.07.2014, has filed a report before the Court stating that investigation in the matter is complete and there was prima facie evidence that the accused have committed the offences and that he assured this Court that the final report under Section 173 of the Code of Criminal Procedure will be filed within two weeks. Nearly two months' time has elapsed since then.

So far, if the police have not filed their final report before the Court concerned, following the procedure prescribed under Section 173 of the Code, the police shall do so within a maximum period of 30 days from today. If the accused have not been apprehended so far, the Sub-Divisional Police Officer shall order for formation of a special team(s) for nabbing the accused. No effort shall be spared for apprehending the accused, who are prima facie guilty of having committed very serious offences.

With this, the Writ Petition stands disposed of. No costs.”

Though the above order was passed on 15.09.2014, the police filed a final report closing the case as lack of evidence on 18.09.2014.

Pursuant to an order passed by this Court in W.P.No.19443 of 2014, the police filed an application before the Court of the XIII Metropolitan Magistrate, Cyberabad at L.B.Nagar, for reopening of the case. By an order dated 02.01.2015, the learned Magistrate ordered reopening of the case for further investigation. The order passed by this Court in W.P.No. 19443 of 2014 and also the order passed by the learned Magistrate have become final, as the same are not challenged till date.

A perusal of the order passed by this Court in W.P.No. 19443 of 2014 would show that the Sub-Inspector of Police, Ghatkesar P.S., filed a report before this Court stating that investigation was complete and there is prima facie evidence to show that the accused have committed the offences and that he has assured this Court of filing report under Section 173 Cr.P.C. within two weeks. Having made such a representation, the Sub-Inspector of Police filed a final report on 18.09.2014 treating the case as "lack of evidence", since the victim and her mother failed to cooperate with the police during the course of investigation. But, much prior to filing of the final report, the Sub-Inspector of Police stated before this Court in W.P.No.19443 of 2014 that there is prima facie material against the accused. In pursuance of the said representation, this Court directed the Sub-divisional Police Officer to constitute special teams to apprehend the accused and that no effort shall be spared for apprehending the accused who are prima facie guilty of having committed very serious offences. In view of the observations made by this Court in W.P.No. 19443 of 2014, the question of entertaining the present criminal petition for anticipatory bail would not arise.

At this stage, the learned Senior Counsel for the petitioners submits that they will take steps to challenge the order passed by this Court in W.P.No.19443 of 2014 by taking leave of the Court, as they were not made parties to the writ petition.

Leaving it open to the petitioners to avail the remedies available under law, the Criminal Petition is dismissed.

JUSTICE C. PRAVEEN KUMAR

30th March, 2015

Note: Furnish C.C. in two days.

(b/o)

cbs

THE HONOURABLE SRI JUSTICE C. PRAVEEN KUMAR

30th March, 2015

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