

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA & THE STATE OF ANDHRA PRADESH
(Special Original Jurisdiction)

FRIDAY, THE TWENTIETH DAY OF FEBRUARY
TWO THOUSAND AND FIFTEEN

PRESENT

THE HON'BLE SRI JUSTICE VILAS V. AFZULPURKAR

WRIT PETITION No.2938 of 2015

BETWEEN

J.Ekanadham and another

... PETITIONERS

AND

The State of Telangana, rep. by its Superintendent of Police, Ranga Reddy
District and others

...RESPONDENTS

The Court made the following:

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ORDER:

Heard.

2. Petitioners, who are husband and wife, state that on account of a monetary dispute between their daughter and her husband on the one hand and respondent No.3 on the other, a case in crime No.970 of 2014 was registered against petitioners herein also. In that complaint, it has been alleged that accused Nos.1 and 2 have borrowed amounts from the complainant by executing promissory notes. However, petitioners state that they have nothing to do with the affairs between the said accused and the complainant. The grievance of the petitioners in this writ petition is only with regard to the notice issued to them under Section 41A Cr.P.C. dated

08.12.2014 by respondent No.2. Petitioners state that they have personally appeared before respondent No.2 on 20.12.2014 and offered their explanation, but respondent No.2 did not receive the same and they were given time till 27.12.2014 to produce A1. Hence, the present writ petition is filed seeking a direction not to involve the petitioners in the civil dispute.

3. Instructions of the learned Government Pleader show that investigation is already taken up in Crime No.970 of 2014, which was registered on 25.09.2014, and petitioners herein are shown as accused Nos.4 and 5 in the said case. It is stated that during the course of investigation, five witnesses were examined including the complainant. In view of the *prima facie* commission of offence, evident from the investigation so far made, petitioners were issued notice under Section 41A Cr.P.C. It is also stated that except registration of the aforesaid crime and investigating the same, as per law, respondent police have not taken any other action and the allegations made by the petitioners are denied. It is, however, stated that the presence of the petitioners is required in connection with the above case and for that purpose notice was already served on the petitioners.

4. It is nodoubt true that petitioners had sent a representation by registered post addressed to respondent No.2, wherein it was specifically mentioned that they appeared before him on 20.12.2014, but as their explanation was not received they have sent the same by registered post on 26.12.2014.

5. Learned counsel for the petitioners also states that so far as cooperating with the investigation and recording of their statement is concerned, petitioners have no objection. However, they cannot be held responsible for every act done by other accused in the said crime.

6. The grievance of the petitioners is that in spite of their appearance before respondent No.2, their statements were not recorded compelling them to send the explanation by registered post. Keeping in view that both the petitioners are of advanced age and that respondent No.2 has already issued notice under Section 41A Cr.P.C., before taking any coercive steps it is appropriate that petitioners appear before respondent No.2 on 02.03.2015 at 11 AM and, on such appearance, respondent No.2 shall record their statements and thereafter proceed further in the matter in accordance with

law. Respondent No.2 shall also ensure that he confines himself to the investigation in the said crime and not to otherwise interfere with the personal affairs of petitioner Nos.1 and 2, which are not subject matter of the aforesaid crime.

With the above directions, the writ petition is disposed of.

As a sequel, the miscellaneous applications, if any, shall stand closed. There shall be no order as to costs.

VILAS V. AFZULPURKAR, J

February 20, 2015
LMV