

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL PETITION No.2129 OF 2015

ORDER:

The petitioner, who is A-2 in Crime No.41 of 2013 of Kadapa I Town Police Station, Kadapa District, filed the present application under Section 438 Cr.P.C. seeking release in the event of his arrest in connection with the above crime, registered for the offences punishable under Sections 406 and 420 IPC.

The case of prosecution is as under :

On 26.01.2013 one U.Srinivasulu lodged a report stating that about 1 ½ year back he purchased a lorry bearing No.KA-07-4347 by taking finance from Sree Ram Chits, Kadapa and appointed one Pavidi Srinivasulu as it's Driver. On 19.01.2013 at about 4.00 a.m., the said Driver informed him that he is taking the lorry for loading. It is alleged that thereafter the Driver did not return back with the lorry. Hence, a report came to be lodged against the driver of the vehicle.

Learned counsel for the petitioner submits that even accepting the allegations in the report to be true no offence is made out against the petitioner. He further contended that the petitioner is innocent of the offence alleged and a false case has been foisted against him. According to him, the petitioner was only a mediator and as such he is nothing to do with the offence.

Learned Public Prosecutor on instructions opposed the application stating that the allegations made against the petitioner are of grave and serious in nature and as such he is not entitled for any relief.

During the Course of investigation, the V.R.O., Kadapa produced the petitioner and others before the Investigating Officer on 09.02.2015 at 5.45 p.m. The accused, who was the Driver of the lorry is alleged to have confessed stating that in the year 2010, he developed acquaintance with one Udayagiri Sreenivasulu, the informant now shown as A-3, who was maintaining a lorry broker office at Yarraguntla Bypass road, Proddatur. In the year 2011 both of them met the petitioner, who informed them about his contacts with the lorry owners in Proddatur and surrounding areas. It is said that the lorry owners used to sell their old lorries to him along with the original records. Then the petitioner used to sell the spare parts of those lorries and used to

keep the original records with him. He used to attach the number plates of the dismantled lorry to another lorry, take the photos and used to obtain finance by using them. In the same manner, the informant/accused offered him to get a lorry on finance in his name. On 31.05.2011 the petitioner came to Irkan circle, Kadapa city along with a lorry, telephoned to A-3 and accordingly all three of them met, affixed a number plate bearing No.A.P.03-V-6929 to that lorry, took a photo by keeping him in front of the said lorry and later all of them proceeded to informant's finance office at Apsara theatre, Kadapa, showed the records and applied for a loan of Rs.4,50,000/-. In the same manner the accused is involved in number of such transactions in different finance companies. All the accused used to encash the cheque given and share the money. In the same manner in the year 2011, Udayagiri Srinivasulu also obtained finance on a lorry No.KA-07-4347 from Sreeram Finance Authorities with the help of the petitioner. Due to the pressure of finance authorities, Udayagiri Sreenivasulu hatched a plan and advised him to leave Kadapa. Accordingly, the driver went Avvacharikona, Tirumala, wrote a suicide note stating that due to heavy debts he is committing suicide and then left to Bellary. Later he came to know that Udayagiri Sreenivasu lodged a report in Kadapa I Town complaining theft of lorry by his driver. The driver of the lorry stated that with the help of Udayagiri Srinivasulu and the petitioner he took finance for three lorries in his name and one in the name of A-3. In the same manner, Nagendra, Chandra, Ravi of Kadapa city also took finance with help of U.Srinivasulu and the petitioner. The investigation made pursuant to the extra judicial confession revealed that A-1 was not acting as a mediator as contended by the petitioner but is involved in the offences causing wrongful loss to financiers and wrongful gain to themselves. Since the allegations, in my view, are grave and serious in nature, I am not inclined to consider the request of the petitioner. However, the Investigating Officer shall scrupulously follow Section 41-A Cr.P.C. in the judgment of the Apex Court in ***Arnesh Kumar v. State of Bihar and another***, before taking any coercive steps against the petitioner.

With the above direction, the Criminal Petition is dismissed.

C. PRAVEEN KUMAR, J

Date: 23.03.2015

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