

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL PETITION No. 3398 OF 2015

ORDER:

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Heard the party-in-person who is the petitioner and the learned Public Prosecutor appearing for the respondent.

The present application is filed under Section 438 Cr.P.C., seeking release in the event of arrest in a crime which is going to be registered at Machavaram Police Station, Vijayawada City at the instance of his sister-in-law.

The petitioner submits that his mother who is an old lady is staying with his brother by name Sridhar. On 09.03.2015 he is alleged to have gone to the house of his brother to see his mother and enquired about her health. When he enquired about the timely medicines and food given to her, his brother and sister-in-law got irritated and immediately called one senior Police Constable of Machavaram P.S. It is said that the said constable along with another constable came there and assaulted the petitioner with hands and legs apart from pressing his neck. It is also alleged that the said constable inflicted Lathi blows in addition to threatening him in un-parliamentary language. On the next day i.e., on 10.03.2015 the petitioner has gone to Government General Hospital, Vijayawada, for the purpose of taking treatment. He was treated as an out patient. It is alleged that though he complained about the injuries sustained, his case was not treated as medico legal case on account of the influence of Inspector of Police, Machavaram Police Station. Anticipating legal action against the police, they now want the younger brother and sister-in-law of the petitioner herein to lodge a report against the petitioner for outraging her modesty. It is alleged that under the premise of a report being given, the police are demanding the petitioner to come to police station. Aggrieved by the same, the petitioner is alleged to have approached the A.P. Human Rights Commission vide H.R. Case No.1266 of 2015. Notice came to be issued to the Commissioner of Police, Vijayawada and the case stands

posted to 30.04.2015. However, the request of the petitioner seeking stay of arrest was declined.

The party-in-person pleads that there is every likelihood of Machavaram Police Station registering a case against him for an offence under Section 354 IPC, which is punishable upto 7 years, and if he is arrested, he will be put to irreparable loss and injury.

Learned Public Prosecutor on instructions submits that till date no report is lodged before the concerned police station and no crime is registered against the petitioner.

Having regard to the circumstances stated above and taking into consideration the proceedings which are pending before the A.P. State Human Rights Commission, it is ordered that if any case is registered against him, which is punishable with 7 years or less than 7 years, the investigating agency while exercising discretion, whether or not to arrest the petitioner herein, under Section 41 Cr.P.C. shall scrupulously follow the conditions stipulated therein and also the judgment of the Apex Court in ***Arnesh Kumar v. State of Bihar and another***^[1], before taking any coercive steps against the petitioner.

With the above direction, the criminal petition is disposed of.

JUSTICE C. PRAVEEN KUMAR

Dt:17.04.2015
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^[1] 2014 (2) ALT (CrI.) 457 SC