

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL PETITION No. 451 OF 2016

ORDER :

The petitioner, who is the sole accused in Crime No.1527 of 2015 of L.B.Nagar Law and Order Police Station, Cyberabad, filed the present Criminal Petition 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, 420 and 506 IPC.

The case of the prosecution is that believing the representations made by the accused that he is having real estate business and paying huge profits, the informants along with 27 others deposited certain amounts in the month of August, 2011. The accused paid interest @ 2% p.a. for some months and later stopped payment of interest. It is alleged that the accused also collected original documents along with the link documents from the informants making them believe that he is going to sell the property for better price. The gist of the report would show that the accused has neither sold the property nor returned the original documents. Further on 04.12.2015 when the informants and others visited the office of the petitioner at Chandrapuri Colony and asked him either to settle the issue or to return the original documents, the petitioner/accused is alleged to have threatened them stating that if they demand money he would see their end. Basing on these allegations the above case came to be registered.

Heard learned counsel for the petitioner and Additional Public Prosecutor appearing for the respondent-State.

Learned counsel for the petitioner submits that the matter is

purely civil in nature and the allegation that the informant and others have handed over the original documents along with link documents to the petitioner and he failed to return the same are invented only for the purpose of this case. It is urged that the petitioner never collected the original documents either from the informant or from any other person. He submits that because of some differences between both the parties with regard to settlement of accounts the present report came to be lodged.

Learned Additional Public Prosecutor opposed the application contending that the petitioner has cheated number of persons by collecting original documents and link documents with a promise to sell the property at higher price. He further submits that instead of selling the property, the petitioner got the same transferred in his name in certain cases. It is urged that since custodial interrogation is necessary to recover the original documents, the petitioner is not entitled for anticipatory bail.

A perusal of the material on record would show that on 03.02.2016 while directing the police not to arrest the petitioner, this Court directed the petitioner to appear before the respondent/police and to produce the documents pertaining to the complainant and other persons referred in the complaint. It is to be noted that till date the petitioner herein neither appeared before the investigating officer nor produced any documents. If really such documents are not in his custody, the counsel should have pointed out the same when such an order was passed on 03.02.2016. It appears that no objection was raised on that day when the order was passed directing him to appear and produce the documents pertaining to the complainants and other persons mentioned in the complaint. Such being the position, the argument of the learned counsel for the petitioner that the petitioner never collected any documents more particularly link documents

cannot be accepted.

To the objection raised by the learned Additional Public Prosecutor with regard to custodial interrogation, the counsel for the petitioner submits that subsequent to the present case, a case in Crime No.118 of 2016 of L.B.Nagar Police Station was also registered against the petitioner herein for the offences punishable under Sections 420, 354 and 506 IPC alleging the very same transactions and hence seeking police custody now may not be proper. But it is to be noted that allegations made therein are different. It is alleged that on 26.01.2016 when the informant therein went to the office of the accused, the accused is alleged to have threatened her with dire consequences, caught hold of her hand and outraged her modesty. Since the complaint was given only for the offences punishable under Sections 354 and 506 IPC it cannot be said that the allegations in both the complaints are one and the same. Since the circumstances which lead the informant to approach the office of the accused were mentioned in the subsequent report, that by itself does not mean that the allegations in both the complaints are one and the same. Taking into consideration the gravity of the offence and seriousness of the allegations made in the report and since huge amount ie Rs.1,67,00,000/- is alleged to have been misappropriated by the petitioner apart from retaining the documents of the complainants and others, the request of the petitioner cannot be considered. But however, having regard to the fact of release of the petitioner in Crime No.118 of 2016, the petitioner, if so advised, shall surrender before the Court concerned and make an application for regular bail, in which event, the same shall be dealt with in accordance with law at the earliest.

With the above direction, the Criminal Petition is disposed of.

JUSTICE C. PRAVEEN KUMAR

14.03.2016

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