

THE HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.43395 OF 2016

ORDER:

This writ petition is filed under Article 226 of the Constitution of India seeking the following relief:

“to pass a Writ, Order or direction preferably one in the nature of Writ of Mandamus to the 2nd Respondent and declare that the two Petitioners must be victims/prosecution witnesses but not accused in impugned FIR bearing Crime No.1022/2016 dated 29.10.2016 on the file of 2nd Respondent and also declare the impugned action as illegal, arbitrary and unconstitutional and pass any other order or orders that deem fit in the facts and circumstances of the case.”

2. Heard and perused the material available on record.
3. Case of the petitioners is that respondent No.4 filed a false complaint against them and respondent Nos.5 and 6 before respondent No.2 and the same was registered as the aforementioned case for the offences punishable under Sections 419, 420, 468 and 471 I.P.C.; that the complaint does not contain any incriminating material against them; that they never did any criminal activities and respondent No.2 is trying to arrest them without following the due process of law.
4. Learned counsel for the petitioners submitted that the petitioners herein are actually victims in the hands of respondent Nos.4 to 6 but they are shown as accused in the aforesaid crime.
5. Learned Assistant Government Pleader for Home submitted that on the basis of the said complaint, a case was registered

against the petitioners and respondent No.2 is investigating the matter in accordance with law.

6. Considering the facts and circumstances of the case and the grievance of the petitioners, without expressing any opinion on merits, respondent No.2 is hereby directed to complete the investigation in the aforementioned crime and file a final report, in accordance with law in either way, without arresting the petitioners. The petitioners are directed to appear before respondent No.2 and execute a personal bond for a sum of Rs.10,000/- (Rupees ten thousand only) each with one surety for the like sum each for their appearance as and when required for the purpose of investigation. If the investigation reveals that the petitioners are victims and they can be treated as prosecution witnesses, it is left open to respondent No.2 to decide the same in accordance with law.

7. With the above direction, the Writ Petition is disposed of. There shall be no order as to costs.

8. Miscellaneous Petitions pending, if any, in this Writ Petition shall stand closed.

JUSTICE RAJA ELANGO

15.12.2016
AMD

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Date:15.12.2016

AMD