

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL PETITION No.5174 of 2016

ORDER:

The present application under Section 438 of the Code of the Criminal Procedure (Cr.P.C.), seeking release in the event of the arrest of the petitioner in connection with an unregistered crime to be registered at the instance of one person by name K.Harish before the I Town Police Station or in any other police station falling within the limits of Vijayawada.

The averments in the report would show one Suryanarayana (petitioner) is a practicing advocate in Vijayawada Bar Association. It is stated that the petitioner got introduced to one Kopella Harish through one advocate by name S.V.P.Rao, for filing suit against one Maredu Subba Rao. Accordingly, he filed O.S.No.843 of 2005 on the file of I Addl.Senior Civil Judge, Vijayawada. Subsequently, the landlord filed RCC No.89 of 2005 against K.Harish, which ended in the favour of said Harish and RCC No.151 of 2006 also ended in his favour. It is stated that the said landlord filed a suit against the K.Harish vide O.S.No.3395 of 2006 for recovery of rent, which was argued by the petitioner herein and the same was ordered in favour of K.Harish. Subsequently, the petitioner herein filed R.C.C.No.1 of 2006 on behalf of K.Harish, which ended in favour of K.Harish. Later, the petitioner herein filed O.S.No.305 of 2011 against one Habib Tani and the suit was decreed. In another suit viz. O.S.No. 1179 of 2010, filed by the petitioner on behalf of K.Harish against one B.Savithri, was decreed in favour of K.Harish and the said Harish requested the petitioner herein to file E.P. on the basis of decrees. As the defendants in the suit are not in Vijayawada, the petitioner herein informed said Harish that if an E.P. has to be filed, the decree will be transferred to the place of defendants and he is not willing to go as he has no practice in other places except in Vijayawada. A dispute arose between the petitioner herein and the said K.Harish and the said K.Harish gave a complaint in Bezawada Bar

Association, Vijayawada. A Committee was constituted and the petitioner submitted his explanation before the Committee. It is stated that subsequently, a notice was issued to said K.Harish. It is further stated that the said K.Harish gave a complaint before the police authorities stating that the petitioner used filthy language against the complainant touching his caste.

A perusal of the material placed before the Court would show that a report was received from the said K.Harish against the petitioner since a dispute arose between the petitioner and the said Harish with regard to refusal of filing E.P. by the petitioner herein. Further, the petitioner, who is aged about 60 years, is a practicing advocate at Vijayawada, upon which a Committee was constituted to look into the matter. After conducting detailed enquiry, the said committee gave report stating that the allegations made against the petitioner herein are false.

Learned public prosecutor on instructions states that though a complaint has been received, till date the police did not register any crime.

Having regard to the above circumstances, if any crime is registered pursuant to a report given by the said K.Harish against the petitioner at I Town Police Station, Vijayawada, a notice as required under Section 41 A of Cr.P.C. shall be given and the respondent shall follow 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. Miscellaneous petitions pending, if any, shall also stand closed.

JUSTICE C. PRAVEEN KUMAR

20.04.2016
vhb

[\[1\]](#) 2014 (2) ALT (CrI.) 457 (SC)