THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

Writ Appeal Nos.1264 & 1265 of 2016

COMMON JUDGMENT: (Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)

Heard Sri P.Kesava Rao, learned counsel appearing on behalf of the appellant, the learned Government Pleader for Home and Sri T.Balaji, learned counsel for the respondent-writ petitioners and, with their consent, the Writ Appeals are disposed of.

These appeals, under Clause 15 of the Letters Patent, are preferred against the orders passed by the learned Single Judge in W.P.Nos.34609 and 34606 of 2016 dated 18.10.2016 whereby, while permitting the investigation to go on, the respondent-writ petitioners were directed not to be arrested.

Sri P.Kesava Rao, learned counsel appearing on behalf of the appellant, would submit that serious allegations are made against the respondent-writ petitioners; and the discretion conferred on the police officials under Section 41 and 41-A of the Criminal Procedure Code, 1973 cannot be negated by the exercise of jurisdiction under Article 226 of the Constitution of India.

Chapter V of the Criminal Procedure Code, 1973 relates to arrest of persons and provides several safeguards. The Supreme Court, in ***Arnesh Kumar vs. State of Bihar***[1], has issued directions, on the manner of arrest and detention, to police officials.

We consider it appropriate, in such circumstances, to modify the orders passed by the learned Single Judge, and to permit the Investigating Officer, if he so chooses, to exercise discretion to arrest the accused strictly following the procedure prescribed in Chapter V of the Criminal Procedure Code, 1973 and the guidelines issued by the

[1] (2014) 8 SCC 273

Supreme Court in ***Arnesh Kumar***[1]. In all other respects, the orders of the learned Single Judge do not necessitate interference.

The Writ Appeals are disposed of accordingly. Miscellaneous petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(A.SHANKAR NARAYANA, J)

24th November, 2016
JSU

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

Writ Appeal Nos.1264 & 1265 of 2016

Date: 24.11.2016

JSU