

HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL PETITION No.285 of 2017

ORDER :

This criminal petition is filed under Sections 437 and 439 of the Code of Criminal Procedure, 1973 (for short, 'the Cr.P.C.') by the petitioner/A.3 to enlarge him on bail in connection with Crime No.299 of 2016 of Miryalguda I-Town Police Station, Nalgonda District, registered for the offences punishable under Sections 420 and 379 IPC.

2. The case of the prosecution in brief is that A.1 to A.6 formed into a group to exchange old currency notes of Rs.500/- and Rs.1000/- (after demonetization) with new currency notes. On 30.11.2016, A.1, A.3-petitioner herein and A.6 came to Miryalguda and approached the de facto complainant at his shop at about 8:30 p.m. to execute the said conspiracy and A.1 informed that he and his friends came from Hyderabad and they are in possession of money belonging to cine producers and they intend to exchange the same on some commission. Immediately, the de facto complainant came out from the shop and invited his friends viz., Dharma, Rambabu, Narsimha and Venkatesh and collected money of Rs.8,50,000/- from them and then the amount was produced before A.2-Md.Anwar for exchange. A.2 took the money and the de facto complainant was accompanied by two other persons and he asked them to show the original currency and handed over Rs.8,50,000/- to A.2 and after counting the money, A.2 shifted currency into a bag and locked the bag and kept the same in a suit

case. Then the de facto complainant asked him to hand over money, two accused persons replied that they will bring the amount immediately. Since those two persons did not return for a long time, the de facto complainant questioned A.2 about the two accused persons, for which A.2 replied that they will come back within 10 minutes. Since those two accused persons did not return, A.2 handed over another bag to the de facto complainant asking him to keep it in almirah and the said bag is under lock. After reaching the house, the de facto complainant broke open the lock and found rough papers in the bag instead of money. Thus, the petitioners allegedly committed an offence punishable under Sections 420 and 379 IPC along with other and on the strength of the said report, the police registered a crime against the petitioner and others for the said offences and issued F.I.R.

3. The contention of the petitioner before this Court is that the petitioner/A.3 is no way concerned with A.2 and A.2 alone is the prime accused and that the petitioner did commit no offence punishable under Section 420 or 379 IPC or under both and that he was implicated by the police without any material.

4. During hearing, the learned counsel for the petitioner reiterated the contentions while contending that the petitioner is languishing in jail since 22.12.2016 though no material is found against him and that he did not make any representation to the de facto complainant and

thereby the petitioner cannot be allowed to languish in jail as a pre-trial detention, which is impressible under law.

5. The learned Public Prosecutor for the State of Telangana contended that only A.2, A.3 and A.7 were arrested and A.1 and A.4 to A.6 are found absconding. It is further stated that only Rs.4,60,000/- was recovered from A.7 and still the balance of Rs.3,90,000/- is to be recovered from the accused persons and apprehending that in case of enlargement of the petitioner on bail, there is likelihood of interfering with the further investigation and it is difficult to proceed further against other accused i.e., A.1 and A.4 to A.6.

6. The allegations made in the complaint only against A.2. A.2 alone made a representation to the de facto complainant and asked him to pay banned currency notes in the denominations of Rs.500/- and Rs.1,000/- agreeing to exchange the same with new currency notes on commission of 15% and accordingly, the de facto complainant collected an amount of Rs.8,50,000/- from Dharma, Rambabu, Narsimha and Venkatesh and produced the same before A.2 and in turn the two persons accompanied with the petitioner also came there and promised to hand over new currency notes for old currency and shifted the currency in to a bag and when the de facto complainant questioned the same, A.2 handed over another bag, which is under the lock and key, but they did not return with new currency and later shifted the bag to his house, the de facto

complainant found rough papers on its opening after broke open the lock. The petitioner's role is allegedly that he accompanied with A.2, who promised to hand over new currency notes for the old currency notes i.e., banned notes. The petitioner filed bail application earlier before the Judicial First Class Magistrate, Miryalguda in Crl.M.P.No.2606 of 2016, which was dismissed by the Magistrate by order dated 22.12.2016. The only contention before this Court is that the petitioner was falsely implicated in the above crime though no material available against him. After dismissal of the application by the Magistrate, there are no changed circumstances and apart from that A.1 and A.4 to A.6 were absconding conveniently avoiding their arrest by the police in connection with the above crime and the amount involved in the crime is not yet recovered. The petitioner appears to be a person who accompanied A.2 and took away the money and shifted the money into a bag, promising to come back along with another person by leaving A.2 at the shop of the de facto complainant. Therefore, there is a prima facie material against the petitioner and that apart, the investigation is not yet completed and the other accused ie., A.1 and A.4 to A.6 are to be apprehended, incase the petitioner is enlarged on bail, there is every possibility of interfering with further investigation and it is difficult for the investigating agency to apprehend A.1 and A.4 to A.6 in connection with the above crime and here long period of languishing in jail by itself is not a ground to enlarge the petitioner on bail in view of the

judgment of the Apex Court in **Chenna Boyanna Krishna Yadav V. State of Maharashtra and another**¹. Since, I find no changed circumstances after dismissal of application by the Magistrate and I find prima facie material against the petitioner for the offences punishable under Sections 420 and 379 IPC, it is not a fit case to enlarge the petitioner on bail at this stage as there is every possibility of interfering with the investigation and arrest of A.1 and A.4 to A.6 is difficult for the police, therefore, I find no grounds to enlarge the petitioner and the petition is liable to be dismissed.

7. Accordingly, the criminal petition is dismissed. Miscellaneous petitions pending, if any, shall stand dismissed.

M. SATYANARAYANA MURTHY, J

23rd January 2017.

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¹ 2007 (1) SCC 242