

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION NO.1512 OF 2017

ORDER:

This petition is filed under Section 438 of Criminal Procedure Code (for short "Cr.P.C.") by accused No.10, apprehending his arrest, in Crime No.472 of 2016 on the file of Chikkadapally Police Station, Hyderabad, registered for the offences punishable under Sections 392 and 420 of Indian Penal Code (for short "I.P.C.") to direct the Station House Officer, Chikkadapally to release him on bail in the event of his arrest in connection with the above crime.

The case of the prosecution, in brief, is that one defacto complainant Sri K.Ganesh Kumar Reddy, who is carrying money lending business by borrowing money from the well-wishers and friends at low rate of interest and provide the same to persons, who require money. He informed to some of his friends and known people that he had currency for exchange. One of his friends Naidu sent a number with the name Sarathchandra Reddy who deals money exchange. Defacto complainant spoke with that person. The petitioner and others had a currency with denomination of 50's, 100's, and 2000's. He entered into a deal to exchange his money to Rs.500 and Rs.1000 notes. Mr. Sarath Chandra Reddy gave him a call on 08.12.2016 and said that his uncle Sesha Giri Rao requires old denominations in bulk. Defacto complainant entered into a deal for exchange of money with new to old with 11% commission with Sarath and another party Harsha. Thereafter, defacto complainant and one of his friends Gopi came with bag having 35

lakhs of currency. He started from home with a bag on TVS Jupiter at 06.00 p.m., Sarath Chandra Reddy gave a meeting place at RTC "X" roads, Bus Bhavan and he reached around at 06.30 p.m. and he get into to the Swift Desire Car No.AP 21 BG 4154 with his money bag, and he asked his friend Gopi to come for him. In the said car Mr.Sarath, Driver, unknown person (Rizwan), Harsha were seated. Mr.Sarath enquired about the quantum of money in the bag, he replied 35 lakhs, on that Mr.Sarath said that people will accept a deal with Rs.1 crore only. He discussed with Seshagiri Rao and Ali and said that they will deal one crore only. Then again he spoke with known people, who having Rs.50's, Rs.100's and Rs.2000's notes, and some people, who are having new notes accepted to exchange money for new currency to old notes. Rs.26 lakhs of money collected from Reddy and 10 lakhs from Mr.Tulasi at RTC Bus Bhavan surroundings. Mr. Sesa Giri Rao agreed to make a deal with Rs.71 lakhs. Mr. Sarath, Mr.Rizwan, Mr.Manohar and driver started moving with the directions of Mr.Rizwan. He was shown the direction and stop that car at the dead end and he get out of the car and met two people who are waiting on the bike near to that place. At the same time Seshagiri Rao's black Hundai Car bearing No.AP 09 CQ 9095 followed his car. Mr. Harsha came near to his car Swift Desire, where he sit and said one Krishna carrying Rs.15 Lakhs in his uncle's car. Mr.Sesha Giri Rao said only two people allowed to go to exchange. Therefore, Mr.Sarath, driver, Mr.Krishna, and defacto complainant were in the car. Due to security purpose, they tried to divert the route, at that time one person came near to his car and enquired about cash. Within a span of minute one black ford endeavour car bearing No.TS 09 EK

6406 came and blocked the route and blew horn with police siren. They afraid of that incident and Sarath alerted the driver to go to main road fast. Driver moved the car in Shivam road and asked whether anybody following them, Krishna said that somebody following them. Mr. Sarath asked Krishna to move to another vehicle. At the second signal car was slow down, then Krishna jumped from one side and defacto complainant jumped from another side and sit in the hired auto with three bags. Then two unknown people, who are following came on bike stopped the auto and tried to pull the bags and snatched away two bags from him and escaped. Due to fear, he got down from auto near Azamabad signals without taking another bag and auto crossed the signal, but the auto driver called him and returned the bag. Two bags, which were snatched away, contain Rs.61 lakhs.

It is the contention of the petitioner that he is no way concerned with the offence and he did not commit any abetment and prayed to enlarge him on pre-arrest bail.

Learned counsel for the petitioner, during hearing, while reiterating the contentions placed reliance on two judgments of Apex Court rendered in “**Sonti Rama Krishna v. Sonti Shanti Sree**¹” and “**S.S.Chheena v. Vijay Kumar Mahajan**²” as to what act amounts to abetment and prayed to enlarge the petitioner on pre-arrest bail.

Learned Public Prosecutor (Telangana State) opposed the bail application on the ground that the investigation is not completed and in case the petitioner is enlarged on bail, there is every

¹ (2009) 1 SCC 554

² (2010) 12 SCC 190

possibility of petitioner's interference with the further investigation and it is also difficult for the police to arrest other accused.

As seen from the allegations made in the complaint that the petitioner also played a key-role in the transaction for exchange of old currency on commission basis. Settlement of such deal with Sarathchandra Reddy and others is nothing but contravention of guidelines issued by Reserve Bank of India and specific overt acts attributed to the petitioner is that he colluded with the Sarathchandra Reddy and others and snatched away two bags containing currency from the possession of defacto complainant. Thus, the role played by the petitioner is clear that he is also responsible for snatching away two bags containing currency and when specific role is attributed to the petitioner; such act would constitute an offence.

In "**Sonti Rama Krishna v. Sonti Shanti Sree**" (referred supra) the Apex Court held that the words uttered in a fit of anger or emotion without any intention cannot be termed as instigation.

In "**S.S.Chheena v. Vijay Kumar Mahajan**" (referred supra) the Apex Court held that abetment involves a mental process of instigating a person or intentionally aiding a person in doing of a thing.

The said judgments are not relevant to the present facts of the case since the petitioner also played key-role in inducing the defacto complainant to bring old currency notes in bags for exchange and participated in the incident and that the contention of the learned counsel for the petitioner that the petitioner has nothing to do with the agreement is merit less. On the other hand,

the petitioner could successfully avoided his arrest in connection with the above crime.

As per the contention of the learned Public Prosecutor (Telangana State) investigation is not completed and thereby there is every possibility of petitioner interfering with the further investigation and the chances of apprehending other accused are bleak in the event of enlarging the petitioner on pre-arrest bail.

Considering the gravity of offence and the manner in which the petitioner and others committed the offence, it is difficult for me to conclude that the petitioner did commit no offence. Therefore, I find that it is not a fit case to grant pre-arrest bail at this stage, consequently, the petition is liable to be dismissed.

In the result, the petition is dismissed. No costs.

The miscellaneous petitions pending, if any, shall also stand closed.

JUSTICE M. SATYANARAYANA MURTHY

08.03.2017
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