

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No.2945 OF 2017

ORDER:

This criminal petition, under Section 438 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.'), is filed by the petitioners/A.1 to A.4 seeking direction to the Station House Officer, Maddipadu Police Station, Prakasham District, to release them on bail in the event of their arrest in Crime No.32 of 2017 registered for the offences punishable under Sections 354, 323, 506 read with 34 of the Indian Penal Code, 1860 (for short 'I.P.C.') and Sections 3(1)(vs) (II) (VA) SCs/STs (POA) Act, 2015, apprehending their arrest.

It is the case of the prosecution that the *de facto* complainants, who are seven in number, are engaged as coolies by the petitioners and became due an amount of Rs.1,20,000/- allegedly, when the *de facto* complainants demanded for payment of coolie amount, the petitioners allegedly came along with 15 others. A.2 caught hold of the towel in the neck of Eramala Srinu, who is not the complainant, and made an attempt to hang him twisting the towel, thereupon Muppavarapu Alisamma - first complainant and other women, who are other coolies, made an attempt to rescue the said Eramala Srinu, the petitioners pushed them on ground and torn their blouses and they all kicked them with legs, abused them raising their caste name and threatened to kill them. On receipt of the above complaint, the police registered the crime and issued F.I.R.

The main contention of the counsel for the petitioners is that there are case and counter case between the petitioners and the *de*

facto complainants and the alleged offence of insult by the petitioners is not supported by any material, since the coolies consists of persons belonging to different castes viz., Mala, Madiga, Vaddera and Dudekula, but allegedly abused them raising their caste name as “Mala, Madiga” that itself is sufficient to conclude that the petitioners did commit offence. It is also brought to the notice of this court the complaint dated 27.03.2017 at 18.00 hours lodged by the petitioners herein on the same day alleging that the *de facto* complainants, who came in three autos, demanded payment of coolie amount, but by that time only Rs.80,000/- available with them and asked them to come on Wednesday, but they were attacked with deadly weapons like sticks, bottles and assaulted the son of the *de facto* complainant –Chundi Krishna and they threatened to foist a case under the provisions of SCs/STs (POA) Act and left the place. The copy of the complaint is also placed on record to prove that the petitioners also lodged a complaint with the police.

The Public Prosecutor for the State of Andhra Pradesh opposed the petition on the ground that the petitioners themselves admitted about the due of coolie amount and in such case they are not entitled to claim pre-arrest bail, in view of bar under Section 18 of the SCs/STs (POA) Act, 1989.

As seen from the material on record, the *de facto* complainants lodged the complaint with the Station House Officer, Maddipadu Police Station, on 27.03.2017 at 17.00 hours, the same was entered in the General Diary as Entry No.6, whereas the petitioners lodged a complaint on the same day at 18.00 hours i.e. one hour after lodging the complaint by these petitioners on the same day. However, the

allegations made in the complaint lodged by the *de facto* complainants herein would, *prima facie*, show that the petitioners tormented the blouses of women belonging to Scheduled Castes and kicked them with their legs, abused them raising their Caste name as 'Madiga Mala'. These words would attract the offences punishable under the provisions of the SCs/ STs (POA) Act, 1989, lodging a complaint by these petitioners subsequent to one hour of the present complaint is of no consequence. However, even assuming for a moment that the alleged incident in the complaint had taken place, but that by itself is not a ground, when the *de facto* complainant was intentionally intimidated or humiliated in a public view by raising their caste name.

Therefore, the offences allegedly committed by these petitioners would, *prima facie*, attract the offences under the provisions of the SCs/STs (POA) Act. In such case, in view of bar contained under Section 18 of the SCs/STs (POA) Act, this court cannot grant pre-arrest bail to the petitioners. However in **Vilas Panduranga Pawar v. State of Maharashtra**¹ the Apex Court held that a duty is cast on the court to verify the averments in the complaint and to find out whether an offence under the provisions of the SCs/STs Act has been *prima facie* made out or not. Section 18 of the SC/ST Act creates a specific bar in the grant of anticipatory bail. When a provision has been enacted in the Special Act to protect the persons who belong to the Scheduled Castes and the Scheduled Tribes and a bar has been imposed in granting bail under Section 438 of the Code, the provision in the Special Act cannot be easily brushed aside by elaborate discussion on the evidence.

¹ (2012) 8 SCC 795

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Therefore, in view of the principle laid down by the Apex Court, it is the duty of the court to verify the allegations in the complaint and to find out whether the petitioners committed any offence or not. On verification of the allegations in the complaint, it is clear that the offence allegedly committed by the petitioners would fall within the provisions of the SCs/ STs (POA) Act. In view of interdict contained under Section 18 of the SCs/ STs (POA) Act, the petitioners are not entitled to claim pre-arrest bail. Consequently, the criminal petition is liable to be dismissed.

In the result, the criminal petition is dismissed.

24.04.2017
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M.SATYANARAYANA MURTHY, J

