

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION NO.3112 OF 2017

ORDER:

This criminal petition is filed under Section 438 of Cr.P.C to enlarge the petitioner/accused on bail, in the event of his arrest in connection with Crime No.112 of 2016 on the file of Galiveedu Police Station, Kadapa District, registered for the offences punishable under Sections 406, 409, 420 of Indian Penal Code (for short 'IPC').

The Mandal Parishad Development Officer (MPDO), Galiveedu Mandal lodged a complaint with the Station House Officer, Galiveedu Police Station alleging that the District Collector, Kadapa and the Project Director of District Water Management Agency, Kadapa have ordered for recovery of Rs.72,17,872/- by initiating criminal action against the Directors of MYRADA i.e Mr. Aravind and Mr. Rishbad, as the amount was found misappropriated in the social audit. On the strength of the complaint, the police registered the above crime against two persons namely Mr. Aravind and Mr. Rishbad and issued F.I.R.

The main contention of the petitioner before this Court is that Mr. Aravind and Mr. Rishbad are only one person by name Aravind G. Rishbud, who is a retired I.A.S officer and Executive Director of MYRDA, a voluntary organization.

As seen from the material on record, the petitioner was found misappropriated funds to the tune of Rs.72,17,872/-. But, the contention of the learned counsel for the petitioner is that he is no way concerned with the financial transaction and the organization is involved only in preparing and implementation of the projects and thereby, the question of his misappropriation does not arise.

Learned counsel for the petitioner further drawn attention that a Social Audit was conducted by another group and found only an amount of Rs.36,000/- was misappropriated, for which, the petitioner allegedly gave explanation, explaining that there was no misappropriation committed by him. Even according to the report submitted by the Social Audit team, there was misappropriation of an amount of Rs.36,000/- and if really, the petitioner is no way concerned with the financial transaction, finding the petitioner misappropriating Rs.36,000/- by the Social Audit team does not arise. Even the explanation given by the petitioner also disclosed that the petitioner is connected with the financial affairs *prima facie*.

Misappropriation of even a rupee also would constitute an offence, no matter whether it is temporary or permanent misappropriation. That too, the petitioner allegedly misappropriated the money which is meant to be used for the benefit of the farmers. The quantum of revenue that is sought to be misappropriated is not much relevant for purpose of imposing the

punishment, whether, it is one rupee or one hundred rupees or even few hundred rupees, makes no difference. The petitioner, an officer in the cadre of Indian Administrative Service, though retired, gets the highest respect in the society and should lead an exemplary life to guide the others. Therefore, there is nothing wrong to expect highest integrity from the officer of Indian Administrative Service. In view of his alleged misappropriation, the petitioner deserves no sympathy and he is not entitled to claim pre-arrest bail.

It is contended that this petitioner did not receive the amount directly. But, it is difficult at this stage to find out whether he has received the amount directly or not. Therefore, I find no grounds to exercise discretion to grant pre-arrest bail to the petitioner at this stage. Consequently, the petition is liable to be dismissed.

In the result, the criminal petition is dismissed.

Consequently, miscellaneous petitions, if any, pending in this petition, shall also stand dismissed. No costs.

JUSTICE M. SATYANARAYANA MURTHY

Date:27.04.2017

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