

HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No.1479 of 2017

ORDER.

This Criminal Petition under Section-438 Cr.P.C. is filed by accused No.1 in Crime No.333 of 2016 of Pedakakani Police Station, Guntur District registered for the offences punishable under Sections-420, 419, 468 and 471 read with 34 I.P.C. apprehending their arrest in connection with the said Crime.

The case of the prosecution in brief, is that the *de facto* complainant has purchased Plot Nos.3 and 4 under registered document No.5184/86 on 26.5.1986 and thereafter, she did not visit the site. However, on 01.11.2016 at about 5 pm., she went to the said Plots and found that somebody removed the wild growth and kept it clean. On her enquiry, she came to know that one Raghavulu-accused No.7 got it cleaned. It is further alleged in the complaint that Accused No.1 conspired with the other accused to sell the said property based on the defect in demarcation number as it was mentioned as 'D.Nos.78 and 81' instead of '78/B and 81/1B' in the said document.

The GPA allegedly executed by the *de facto* complainant does not bear her photograph and some body's photograph was affixed and the sale deed was executed in pursuance of the authorization allegedly given by the *de facto* complainant. Thus,

it is a clear case of fraud. Using a fake document as a genuine one is an offence punishable under Sections-468 and 471 I.P.C. Thus, the material on record, *prima facie*, shows that the petitioner and other accused, by creating fake document *i.e.*, GPA, executed the sale deed in favour of others in respect of the property purchased by the *de facto* complainant. Hence, I find *prima facie* material against the petitioner to conclude that he committed the offence and consequently, he is disentitled for grant of pre-arrest bail.

Granting of pre-arrest bail is purely the discretion of the Court and such discretion cannot be exercised in favour of the petitioner as he is also one of the persons responsible for creation of fake documents.

However, at this stage, learned counsel for the petitioner requested to issue directions to the Station House Officer, Pedakakani Police Station, Guntur District to follow the procedure under Section-41 A I.P.C. and the guidelines issued in *Arnesh Kumar Vs. State of Bihar*¹.

This Court while dealing with an application filed under Section-438 Cr.P.C. cannot issue such directions, however, the Station House Officer, Pedakakani Police Station, Guntur District is bound to follow the guidelines issued in *Arnesh Kumar's* case

¹ 2014(2) ALT (CrI.)457(SC)

(supra), otherwise it would amount to contempt. Hence, no separate direction need be given to follow the guidelines issued in *Arnesh Kumar*'s case (supra).

Subject to the above observations, the Criminal Petition is dismissed.

JUSTICE M.SATYANARAYANA MURTHY

27th February, 2017

DR

