

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION NO.2729 OF 2017

ORDER:

This petition is filed under Section 438 of Criminal Procedure Code (for short "Cr.P.C.") by accused, apprehending his arrest, in Crime No.18 of 2017 on the file of Kundurpi Police Station, Ananthapuram, registered for the offences punishable under Sections 167, 354 (A), 354 (D), 500 and 509 of Indian Penal Code (for short "I.P.C.") to direct the Station House Officer, Kundurpi Police Station to release him on bail in the event of his arrest in connection with the above crime.

One L.K.Komala Bai lodged a complaint with the police alleging that the petitioner M.Shiva Shankar earlier worked as Cashier in State Bank of India, Sainagar, his sister Gouthami was living with him and they subjected the defacto complainant L.K.Komala Bai to harassment. In this regard, she lodged a complaint with the police who in turn registered as Crime No.45 of 2016. Later on 26.06.2016 the petitioner behaved with the defacto complainant in objectionable manner and caught hold of her, thereupon she lodged another complaint, which is registered as Crime No.47 of 2016 and the same is under investigation. Even after registration of two crimes, the petitioner did not change his attitude, developed hatred-ness and continuing harassment in different ways. On 28.09.2016 he sent morphed blue films by Whatsapp, which are highly objectionable and he telephoned to her on 01.01.2017 continuously and insulted her using unparliamentarily language. He also used to telephone to her mother and started blackmailing with a view to bring her to come

to his terms. They also filed an application under Right to Information Act calling for certain information and sending bad morphing images to blackmail her; thereby she was subjected to mental harassment. The petitioner is also working in the same department in which the defacto complainant, but still he is causing mental agony to her.

It is the contention of the learned counsel for the petitioner that the defacto complainant is in the habit of filing complaints against the petitioner as he refused to accept her proposal to marry her. She also filed two complaints i.e. Crime Nos.45 of 2016 and 47 of 2016, in both the said crimes the petitioner was enlarged on bail by this Court, but dissatisfied with the harassment against the petitioner, defacto complainant lodged the present complaint.

Learned Public Prosecutor for the State of Andhra Pradesh opposed the present petition on the ground that it is a serious case of sexual harassment at work place. Therefore, the petitioner is not entitled to claim pre-arrest bail as he continuously sending objectionable messages, despite lodging complaints.

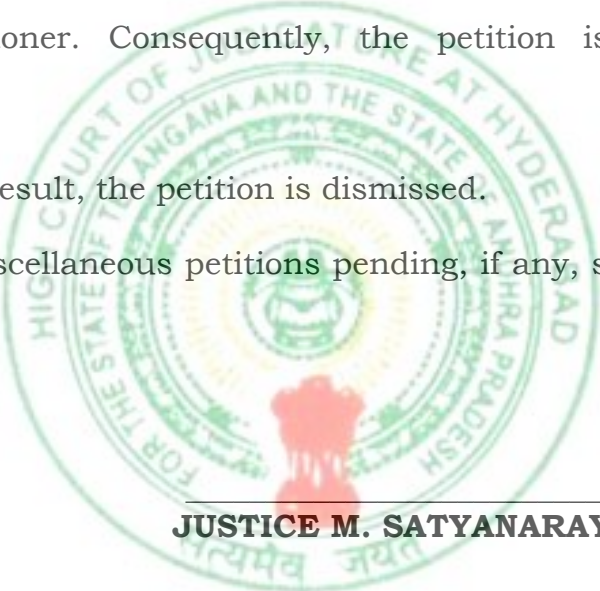
On perusal of the material available on record, it is clear that identical complaints were lodged by the defacto complainant and in those crimes, the petitioner has already obtained bails either regular or pre-arrest bail, but did not change his attitude and sending objectionable or sexually explicit messages by Whatsapp, which is a matter of serious concern. Enlargement of petitioner on bail in earlier crimes is not a ground to enlarge the petitioner on bail, that apart he is working as Cashier in bank dealing with customers i.e. general public, but sending objectionable messages to the defacto complainant is a clear indiscipline in discharging his

duties. When the petitioner refused to accept the proposal of the defacto complainant, continuously sending messages and making telephone calls would attract the offence punishable under Sections 354 (A) and 354 (D) of I.P.C. It is sexual harassment of a woman at work place.

Moreover, the investigation is in midway, hence at this stage it is difficult for me to conclude that the petitioner did commit no offence *prima facie* and there is every possibility to interfere with the further investigation in the event of enlarging the petitioner on pre-arrest bail. Therefore, I find no ground to grant pre-arrest bail to the petitioner. Consequently, the petition is liable to be dismissed.

In the result, the petition is dismissed.

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



JUSTICE M. SATYANARAYANA MURTHY

11.04.2017
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