

HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRL.P.No.1858 OF 2017

ORDER:

This criminal petition is filed under Section 438 of Cr.P.C to enlarge the petitioner/A1 on bail in the event of her arrest in connection with Crime No.131 of 2016 of Nandikotkur Police Station, Kurnool District, registered for the offences punishable under Sections 506 read with 34 of IPC and Section 4 of Prize Chits and Money Circulation Scheme (Banning) Act, 1978.

The case of the prosecution, in brief, is that on 24.10.2016, the *de facto* complainant – Meri Nirmala lodged a complaint with the police alleging that the petitioner approached her and requested to join as Member in the chit run by her having license to run the same and that her mother Rasool and brother Ameer also requested to join in the chit that they are running chits and accordingly she joined as member in a chit for the value of Rs.1,00,000/- on 05.01.2015 on a monthly subscription of Rs.5,000/- for the term of 20 months and another chit for the value of Rs.1,00,000/- on 15.09.2015 on monthly subscription of Rs.10,000/- for the term of 10 months and the said chits were ended on 05.08.2016 and 15.06.2016 respectively. But the accused after completion of the chit period did not pay any amount to the petitioner and thus, committed the above offence along with the others.

The contention of the petitioner before this Court is that she filed I.P.No.20 of 2016 under Sections 6, 10 and 24 of the Provincial Insolvency Act (for short ' the Act) to adjudge her as insolvent. The *de facto* complainant herein is the second respondent in the said IP

and that she is due to her a sum of Rs.1,50,000/-, which was shown in 'A' schedule i.e. schedule of creditors.

Thus, the petitioner herself admitted that she became due an amount of Rs.1,50,000/- besides debts due to several others to a tune of Rs.30,07,000/-. It is specifically contended that the petitioner also filed a petition under Section 21 of the Act to obtain protection from arrest. Taking advantage of the alleged protection order under Section 21 of the Act, it is contended that when she invoked Section 21 of the Act, she cannot be arrested and sought for pre-arrest bail.

Section 21 of the Act protects the person from arrest and committal to civil prison in connection with debt in execution of decree etc and such protection cannot be extended to a criminal case where the petitioner committed a serious offence. Therefore, based on Section 21 of the Act the petitioner is not entitled to claim pre-arrest bail. However, the schedule of creditors i.e. 'A' schedule annexed to the insolvency petition filed under Section 10 itself shows that she failed to repay the amount of Rs.1,50,000/- to the *de facto* complainant. Hence, it is difficult for this Court to accept that the petitioner did not commit the above offence. In those circumstances, this Court cannot grant pre-arrest bail to the petitioner.

Accordingly, the criminal petition is dismissed.

Pending miscellaneous petitions in the petition, if any, shall stand closed.

M.SATYANARAYANA MURTHY,J

21.03.2017
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