

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL PETITION No.2608 of 2017

ORDER:

This Criminal Petition under Sections 438 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.'), is filed to enlarge the petitioner/ A.7 in the event of his arrest since he is apprehending arrest in connection with Crime No.95 of 2016 on the file of Rompicherla Police Station, Guntur District, registered for the offences punishable under Sections 307, 302, 120B r/w 34 IPC.

The *de facto* complainant-Medikonda Venkateswar Reddy filed a report stating that he is a resident of Rompicherla Village and he was blessed with two daughters. His elder daughter was given marriage to his nephew Kali Chinnapareddy about ten years ago. Due to politics in the village, Chaparapu Gopal Reddy and Gelli Brahmareddy were divided into two groups. The *de facto* complainant is supporter of Chaparapu Gopal Reddy and the accused is supporter of Gelli Brahmareddy. The deceased along with two others while proceeding on two different motorbikes, when they reached the scene of offence i.e., at Tungapadu Sapta, one Maruthi Wagnor car came at high speed and hit the motorcycle of the deceased. Padla Subbareddy, Chaparapu Sanjeevareddy, Kallam Sivareddy, Padala Hanimireddy, Chparapu Veeranjaneyareddy were got down from the car armed with axes, long knives and Talvaars. Among them one Padala Subbareddy hacked Chinnapareddy (deceased) with an axe and in the meantime Padala Veerareddy @ Tati Reddy and Chaparapu Sankar Reddy came on a motorcycle shouting as "Levakunda Champankira Naa Kodukuni". Immediately other persons, who are

armed with axes and knives, hacked him. On seeing the incident, the *de facto* skulk away from the scene of offence and lodged a report with police.

The petitioner earlier filed bail application in CrI.P.No.1313 of 2017, which was ended in dismissal by Order dt. 22.02.2017 assigning its reasons declining to grant pre-arrest bail to the petitioner on the ground that other accused were enlarged on bail by the Sessions Court on regular bail, when the investigating agency reported that major part of investigation is completed by examining nine witnesses. Taking advantage of the observations made by Sessions Court while enlarging other accused it is contended that the investigation is completed and it is the major changed circumstance.

Grounds to grant pre-arrest bail and the grounds to grant regular bail are totally different and the completion of investigation by the investigating agency itself is not sufficient when the petitioner is able to avoid successfully his arrest by the investigating agency on one ground or the other. Therefore, the observations made by the Sessions Court in the regular bail application filed by the other accused stating that major part of investigation is completed is not a ground to enlarge the petitioner on bail. Even according to the observations made by this Court in the earlier bail application, unless the Court come to the conclusion that there is no material against the petitioner to conclude that the petitioner did commit no offence and there are no circumstances to flee from justice and to interfere with further investigation and reasonable apprehension of tampering of the

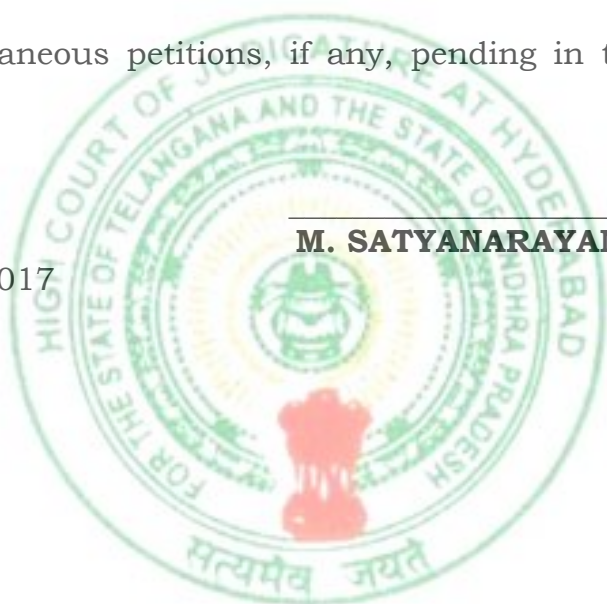
witness, the Court cannot exercise jurisdiction under Section 438 Cr.P.C. Therefore, I find no ground to conclude *prima facie* that the petitioner did commit no offence *prima facie* and apart that, no major changed circumstances are brought to the notice of this Court and in view of decision reported in ***State of Tamil Nadu v. S.A. Raja***¹, the Court cannot exercise the jurisdiction under Section 438 Cr.P.C. unless there are changed circumstances in the investigation. Therefore, I find no ground to allow the Petition.

In the result, this Criminal Petition is dismissed.

Miscellaneous petitions, if any, pending in this case, shall stand closed.

Date:04.04.2017
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M. SATYANARAYANA MURTHY, J



¹ (2005) 8 Supreme Court Cases 380

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