

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No.556 of 2017

ORDER:

The petitioner/A.2 filed the present application under Section 438 Cr.P.C. to release him in the event of his arrest in connection with Crime No.16 of 2017 of Kurnool Taluq Police Station, Kurnool District, registered for the offences punishable under Sections 147, 148, 448, 427, 307 and 506 read with 149 IPC.

2. It is the case of the *de facto* complainant that his elder father by name Joirnail Singh, running a Dhaba under and name and style of Dashmas situated on National Highway No.44. After his death, the *de facto* complainant along with his senior paternal aunt Naljinderkaur has been maintaining the Dhaba for the last eight years. On 11.01.2017 about 1:00 A.M., 15 persons came in two cars and on two bikes to Dhaba, had food and left the place without paying the bill amount even though the *de facto* complainant demanded the bill amount. The *de facto* complainant and his worker checked the C.C.Cameras in the Dhaba and identified the persons as residents of Balaji Nagar. Thereupon, on the same day at about 6:30 PM he went to the house of one Sajid demanded the bill amount, who in turn assured that he will pay the bill amount later. On the next day i.e., on 12.01.2017 around 1:30 A.M., while the *de facto* complainant along one Manpreet Singh and other workers are working in the Dhaba, the accused persons came in cars, motorbikes and attacked the *de facto* complainant and others with stout sticks and iron rods while saying that how dare you are to demand the bill and destroyed the valuable items i.e. Freezer and C.C.Camera along with Monitor and chairs. Basing on these allegations, the present crime came to be registered.

3. Learned counsel for the petitioner would submit that the petitioner never attacked the *de facto* complainant as alleged; that he is pursuing studies and taking coaching for the police selections; that he was falsely implicated in the crime and in case he is arrested, he will not get the police selection and therefore, sought for pre-arrest bail.

4. Learned Additional Public Prosecutor for the State of Andhra Pradesh opposed the same on the ground that the petitioner along with other accused caused grievous injuries and made an attempt to kill the *de facto* complainant with iron rods and stout sticks.

5. As seen from the material on record, on 11.01.2017 one Sajid along with others after taking food in the Dhaba of the *de facto* complainant left the place without paying any amount. The said persons were identified through the camera and *de facto* complainant went and asked the bill amount. Then, they assured that they will pay the amount later, but, did not pay the same. On 12.01.2017 the accused persons came in three cars and on two motorbikes at about 1:30 AM., armed with iron rods and hard sticks and beat the *de facto* complainant and other workers and damaged the property in the Dhaba. Therefore, coming to the Dhaba in three cars and on three motorbikes by the accused persons armed with deadly weapons itself would indicate that they had *prima facie* intention to put an end to the life of the *de facto* complainant.

6. No doubt, no specific overt acts are attributed against the petitioner. But it is difficult to attribute specific overt acts when a mob consisting of more than 15 persons came in three cars and on

two motorbikes during night time and therefore, on that ground the petitioner cannot be enlarged on bail.

7. A complaint was lodged against the *de facto* complainant by one Pavan Kumar, which was registered as a case in Crime No.11 of 2017 on 16.01.2017. It is the contention of the petitioner that the complaint was lodged much prior to the incident, but police intentionally delayed to register the crime. But, as seen from the complaint, it was received by the Sub-Inspector of Police on 16.01.2017. The petitioner's counsel explained the delay as the petitioner was undergoing treatment in the hospital for the injuries he sustained. But, all these things cannot be examined at this stage, however, the allegations made in the complaint and the material on record would *prima facie* show that the petitioner also participated in the incident. Therefore, it is not a fit case to enlarge the petitioner on bail exercising the discretionary power at this stage which conferred under Section 438 Cr.P.C., and consequently, the petition is liable to be dismissed.

8. Accordingly, the Criminal Petition is dismissed.

M.SATYANARAYANA MURTHY, J

FEBRUARY 22, 2017

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Date: 22.02.2017

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