

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No.911 OF 2017

ORDER:

This criminal petition, under Section 438 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.'), is filed to grant pre-arrest bail to the petitionerS/A.1 to A.5 apprehending their arrest in connection with C.C. No.459 of 2016 pending on the file of Judicial Magistrate of First Class, Kothavalasa, for the offences punishable under Sections 447, 427, 379, 506(2) read with 34 of the Indian Penal Code, 1860 (for short 'I.P.C.').

The petitioner, admittedly arrayed as an accused in C.C. No.459 of 2016. The respondent - Moyya Demudu Babu filed private complaint before the Judicial Magistrate of First Class, Kothavalasa, and after following necessary procedure, the learned Magistrate took cognizance of the offence and registered the same as C.C. No.459 of 2016 and it is pending before the court. But the petitioners apprehending their arrest in connection with the above C.C. on the ground that there is every likelihood of arrest of them.

The Public Prosecutor for the State of Andhra Pradesh filed copy of the letter dated 06.02.2017 informing that the respondent approached the Judicial Magistrate of First Class, and filed private complaint against these petitioners, the court took cognizance and registered it as C.C. No.459 of 2016 and that no matter is pending with the police, Kothavlasa police station.

As the court took cognizance of the offence and issued process by following the procedure provided under Section 204 Cr.P.C., the police

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is not supposed to effect the arrest of these petitioners unless it is referred to them by following the procedure provided under Section 156(3) Cr.P.C. or by any other Special Order of the Judicial Magistrate of First Class.

Therefore, the apprehension of the petitioners is not based on any reasonable belief and hence this court cannot grant pre-arrest bail to the petitioners, who are not able to establish that there is possibility of arrest in connection with the above C.C. based on any tangible material. Hence, the petition is misconceived and consequently, the petition is liable to be dismissed.

In the result the criminal petition is dismissed.

10.04.2017
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M.SATYANARAYANA MURTHY, J

