

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION NO.2474 OF 2017

ORDER:

This petition is filed under Section 438 of Criminal Procedure Code (for short "Cr.P.C.") by accused, apprehending their arrest, in Crime No.21 of 2017 on the file of III Town Police Station, Nellore, registered for the offences punishable under Sections 447, 448, 452, 426, 384, 506, 120 read with 34 of Indian Penal Code (for short "I.P.C.") to direct the Station House Officer, III Town Police Station, Nellore to release them on bail in the event of their arrest in connection with the above crime.

As seen from the copy of the F.I.R., a private complaint was filed by the defacto complainant Nageswara Rao Surisetty making certain allegations before the Judicial First Class Magistrate and in turn the Judicial First Class Magistrate by exercising power under Section 156 (3) of Cr.P.C. referred the matter to the III Town Police Station, Nellore for investigation and submit a report. But strangely, the petitioners did not file even copy of the complaint enabling this Court to verify what were the allegations made therein. When this Court asked about copy of the complaint, learned counsel for the petitioners stated that copy of the order in CrI.M.P.No.187 of 2017 dated 17.03.2017 is filed along with the present petition (which is at page No.18 of the paper book). The said copy of the order does not disclose the total allegations made in the private complaint filed under Section 200 of Cr.P.C. The presiding Officer of the Sessions Court extracted the gist of the complaint without discussing anything. But it is a strange case, where the petitioners do not like to file even the copy of the

complaint and disabled the Court to verify the contents of the complaint while deciding the application for grant of bail.

Learned counsel for the petitioners has drawn the attention of this Court to the report filed by the Advocate-Commissioner in I.A.No.665 of 2005 in O.S.No.388 of 2005 on the file of Principal Junior Civil Judge, Nellore and copy of the order passed in S.A.No.712 of 2016 in a civil litigation pending before this Court regarding possession of the property. But in the absence of copy of complaint, it is difficult to accept the contentions raised by the learned counsel for the petitioners that they are in possession of the property and that the petitioners did commit no offence.

I am unable to understand as to why the petitioners did not approach this Court with clean hands by producing copy of the complaint enabling this Court to verify the contents of it. In those circumstances, it is difficult for me to accept the contention of the learned counsel for the petitioners that on account of pending civil litigation, present complaint is filed against these petitioners. Hence, I am unable to exercise my discretion to grant pre-arrest bail in favour of the petitioners. 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

30.03.2017
Ksp