

HONOURABLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No.1451 OF 2017

ORDER:

This Criminal Petition is filed under Section 438 of Cr.P.C. to grant pre-arrest bail to the petitioners apprehending arrest in connection with Crime No.22 of 2017 of Mangalagiri Rural Police Station, Guntur District, registered for the alleged offences punishable under Sections 448, 363, 341, 509, 506, 323 read with 34 of I.P.C. and Section 3(1)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'the Act,1989').

The defacto complainant lodged a complaint alleging that the petitioners are carrying on business in sale of goats and he used to purchase goats from the petitioners for carrying on mutton business at Yerrabalem. During the course of business transaction, the petitioners supplied eighty goats but they died due to some disease and the petitioners demanded for payment of value of those goats and accordingly, he paid some amount in installments. But the petitioners pressurized him to pay the balance amount for which, he assured that he will pay the balance amount. While so, the petitioners allegedly came to his house on 29-12-2016 at 4 A.M., while he was sleeping with his wife and children, knocked the door and when he opened the door, the petitioners misbehaved with his wife, beat her, caught hold of tuft of her hair and abused her as 'Erukala Lanja'. They took him forcibly in the Scorpio car bearing

No.A.P. 07 4599 to the water plant. The 2nd petitioner also came there and abused him as “Oreyi Yerukula Lanja Kodaka”, and the son of 2nd petitioner who is the 1st petitioner herein also abused him as “Yerukula Lanja Kodaka” and thereafter, they obtained signatures on blank promissory note of Rs.100/- stamp etc. and thus committed the offence.

The allegations made in the complaint are very specific and therefore, the petitioners are punishable under Sections 448, 363, 341, 509, 506, 323 read with 34 of I.P.C. and Section 3(1)(s) of the Act, 1989.

There is a clear bar under Section 18 of the Act, 1989 to grant pre-arrest bail and the Court can grant pre-arrest bail, if there is no material to attract the offence under the said Act.

In “*VILAS PANDURANG PAWAR V. STATE OF MAHARASHTRA*”⁽¹⁾ the apex court carved out certain exceptions to such interdict and held that Section 18 of the S.Cs. and S.Ts. (POA) Act creates a bar invoking Section 438 of Cr.P.C. However, a duty is cast on the court to verify the averments in the complaint and to find out whether an offence under Section 3(1) of the SC/ST Act has been *prima facie* made out. In other words, if there is a specific averment in the complaint, namely, insult or intimidation with intent to humiliate by calling with caste name, the accused persons are not entitled to anticipatory bail. When an offence is registered against a

¹ (2012) 8 SCC 795)

person under the provisions of the SC/ST Act, no Court shall entertain application for anticipatory bail, unless it *prima facie* finds that such an offence is not made out.

Here, the specific allegations made against the petitioners are that they have abused the defacto complaint and his wife as “Yerukula Lanja Kodaka” and Erukala Lanja’, therefore, such incident insult of a member of Scheduled Caste and Scheduled Tribe in public view is punishable under Section 3(1)(s) of the Act,1989.

If the act of the petitioners would fall within any one of the offences punishable under Section 3(1)(s) of the Act, 1989, the court can refuse to grant pre-arrest bail.

In the present case, abusing the defacto complaint and his wife raising their caste name is an offence and thereby, committed an offence *prima facie* punishable under Section 3(1)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and hence, this court cannot exercise the discretionary power conferred on it to grant pre-arrest bail in view of bar under Section 18 of the Act and the petition is liable to be dismissed.

Accordingly, this Criminal Petition is dismissed.

As a sequel to the disposal of this petition, the Miscellaneous Petitions, if any, pending, shall stand dismissed.

JUSTICE M.SATYANARAYANA MURTHY

Dated 23-2-2017.

Dvs.

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Dvs