

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION NO.1762 OF 2017

ORDER:

This petition, under Section 438 of the Code of Criminal Procedure, is filed by the petitioners-accused Nos.2 and 3 seeking pre-arrest bail apprehending their arrest in Crime No.344 of 2016 of Yellandu Police Station, Khammam District, for the offences punishable under Sections 409 and 420 of the Indian Penal Code (IPC).

It is the case of the petitioners that the petitioners are working as Deputy General Managers in Singareni Collieries Company Ltd., in a far place from the place where the alleged offence took place and thereby, the question of interference with the further investigation does not arise and that apart, material on record does not disclose any offence, the proceedings in Rc.No.185, 15-C, A-1 dated 19.09.2016 issued by the Deputy Registrar of Co-operative Societies, Kothagudem, under Section 60(1) of TSCS Act, 1964, made it clear the liability of the petitioners and others was Rs.19,37,512/- by 31.08.2016 and thereby, the petitioners did commit no offence and prayed to grant pre-arrest bail.

The petitioners are the Deputy General Managers, Singareni Collieries, and by virtue of their employment as Ex-Officio Secretaries, during the said period, there was an alleged misappropriation to a tune of Rs.1,15,68,481/- and thereby, cheated the members of the Society at large and the Assistant Registrar, District Co-operative office, Bhadradi, Kothagudem, addressed a letter dated 22.12.2016 stating that in the inquiry,

surcharge proceedings were initiated and found misappropriation of certain amount in the Society.

Now, the contention of the counsel for the petitioners before this Court is that the petitioners were already transferred to Peddapalli and discharging their duties as Officers in Singareni Collieries at Peddapalli, and thereby, the question of their interference with the further investigation in the event of enlarging them on pre-arrest bail does not arise and that apart, there is no material directly pointing out the involvement of the petitioners in the crime. Therefore, prayed to enlarge the petitioners on bail.

Learned Public Prosecutor opposed the petition contending that in the event, the petitioners are enlarged on bail, there is every possibility of interference with further investigation as the entire misappropriation is based on documentary evidence and unless the investigation is completed, the petitioners cannot be enlarged on bail, at this stage.

Undisputedly, the petitioners were employees and they are Ex-Officio Secretaries of the Co-operative Society. During their tenure, they allegedly misappropriated an amount of Rs.1,15,68,481/-, but finally surcharge proceedings were limited to Rs.19,37,512/- up to 31.08.2016. Even the material including surcharge proceedings would go to show that the petitioners are responsible for such alleged misappropriation.

To grant pre-arrest bail, the Court has to record its satisfaction that there is no *prima facie* material against the petitioners to conclude that they did commit no offence and that the gravity of the offence, possibility of tampering the evidence and interference with further investigation.

The present petition is filed by the petitioners renewing their request of the same relief i.e., grant of pre-arrest bail but the changed circumstances pointed out before this Court are that accused No.1 was arrested and released and 13 witnesses were examined so far. This Court dismissed Criminal Petition No.305 of 2017 on 30.01.2017. Except arrest of accused No.1 subsequent to dismissal of Criminal Petition No.305 of 2017, there is no further change in the investigation in the crime by the investigating agency concerned. Therefore, absolutely there are no changed circumstances.

In **State of Tamilnadu v. S.A.Raja**¹, the Apex Court held that filing of successive applications without there being no changed circumstances would not serve any purpose and it is a bad precedent.

As discussed above, I find no changed circumstances after dismissal of Criminal Petition No.305 of 2017 and therefore, I find no grounds to accede to the request made by the learned counsel for the petitioners to enlarge them on pre-arrest bail at this stage, as virtually there are no changed circumstances. The Criminal Petition is liable to be dismissed.

In the result, the Criminal Petition is dismissed. Miscellaneous petitions, if any, pending shall stand dismissed.

(M.SATYANARAYANA MURTHY, J)

7th March 2017
RRB

¹ (2005) 8 SCC 380