

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE DR JUSTICE SHAMEEM AKTHER

Writ Appeal No.209 of 2017

JUDGMENT: (Per the Hon'ble the Acting Chief Justice Ramesh Ranganathan)

This appeal, under Clause 15 of the Letters Patent, is preferred against the order passed by the Learned Single Judge in W.P.No.520 of 2017 dated 05.01.2017.

The appellant herein is the 3rd respondent in the Writ Petition. She has filed this appeal aggrieved by the order of the Learned Single Judge directing the respondent-writ petitioners to execute a personal bond for a sum of Rs.25,000/- each with one surety for a like sum each to the satisfaction of the Investigating Officer; to appear before the Investigating Officer daily at 5:00 p.m. for a period of 15 days; and in directing the Investigating Officer to complete investigation without arresting the respondent-writ petitioners.

The order under appeal was passed even without putting the 3rd respondent on notice, and without giving her an opportunity of being heard. While we were initially inclined to set aside the order under appeal, and restore the writ petition to file, both Sri P.Suresh Kumar, learned counsel for the appellant, and Sri I.Koti Reddy, learned counsel for the respondent-writ petitioners, would submit that, instead, the Investigating Officer may be directed to exercise his discretion whether or not to cause arrest of the respondent-writ petitioners in accordance with Chapter V of the Criminal Procedure Code.

As the discretion, whether or not to effect arrest of the accused, must be exercised by the Investigating officer and this Court would not, ordinarily, take upon itself the task of determining whether or not the accused should be arrested, we are satisfied that the order under appeal must be set aside.

The order under appeal is, accordingly, set aside. The 2nd respondent-Investigating Officer shall exercise his discretion whether or not to effect arrest of the respondent-writ petitioners strictly in accordance with Chapter V of the Criminal Procedure Code.

The Writ Appeal is disposed of accordingly. Miscellaneous Petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

20th February, 2017
JSU

(DR. SHAMEEM AKTHER, J)



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Date: 20.02.2017

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