

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION NO.3136 OF 2018

ORDER:

Petitioners, who are A1 and A2 in Cr.No.112 of 2017 on the file of the Station House Officer, Rudravaram Police Station, Kurnool District, registered for the offences punishable under Sections 307 and 509 r/w 34 IPC filed this petition under Section 438 Cr.P.C. seeking pre-arrest bail.

2. Heard learned counsel for the petitioners, learned Additional Public Prosecutor representing the State of Andhra Pradesh and perused the record.

3. The petitioners herein are A1 and A2 in the above crime. 1st petitioner-A1 is the husband of the de facto complainant and the 2nd petitioner-A2 is the person, with whom A1 developed illegal intimacy. The specific allegation made against the petitioners-A1 and A2 in the complaint is that the de facto complainant and A1 are wife and husband. Their marriage was performed 12 years ago and they were blessed with two children. A1 was working in a private organization at Hyderabad for the past 4 years and developed illegal intimacy with another woman. A1 started harassing the de facto complainant both mentally and physically. When he threatened to kill her, she lodged a report with the police and the same was registered as Cr.No.192 of 2015 for the offences punishable under Sections 498-A, 323 and 307 r/w 34 IPC. Thereafter, the brother of A1 started misbehaving with the de facto complainant and she lodged a report with the Superintendent of Police and that the matter was compromised. An agreement was executed to convey Ac.1.80 cents of land and house etc., While so, on 28.11.2017 at about 8.00 P.M., A1 and A2 found planting

paddy in the land. On coming to know about the same, she went and questioned. Thereupon, A1 with an intention to kill her pushed her on the ground. When she fell down on the ground, A1 pressed her neck with his legs. A2 and Christopher (A3) caught hold of her tuft of hair, beat her and abused her in filthy language with an intention to kill her.

4. The main contention of the petitioners is that a divorce petition filed by A1 is pending before the Court and criminal cases are also pending against the petitioners and the de facto complainant. Due to grudge against the petitioner-A1, the de facto complainant lodged a complaint with false allegations and that the petitioners did commit no offence and prays to grant pre-arrest bail to the petitioners.

5. On the other hand, learned Additional Public Prosecutor contended that during the course of investigation, only five witnesses were examined and further investigation is pending. Wound certificate is also collected, which shows that the de facto complainant received injuries in the incident on the neck. In this case, A3 was remanded to judicial custody. The petitioners are not entitled for pre-arrest bail and prays to dismiss the petition.

6. As per the contention of the learned counsel for the petitioners, due to pending litigation both on civil and criminal side, a report was lodged with the police against the petitioners, though no incident was occurred. Pendency of civil and criminal cases is one of the reasons to commit such offence and reason for foisting a false case. On that ground, it is difficult to disbelieve the case of the de facto complainant at this threshold. On the other hand, the wound certificate collected by the Investigating Agency shows that the de facto complainant received injury on her

neck. That itself *prima facie* shows that A1 pressed her neck with his legs with an intention to kill her by pushing her on the ground. The participation of A2 and A3 also discloses in the complaint and the witnesses spoke about the incident. Therefore, at this stage, it is not possible to enlarge the petitioners on pre-arrest bail.

7. Accordingly, the Criminal Petition is dismissed.

M.SATYANARAYANA MURTHY, J

DATED: 22-03-2018.

Hsd

