

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

WRIT PETITION No.8238 of 2018

ORDER:

This Writ Petition, under Article 226 of the Constitution of India, is filed to quash the proceedings in FIR No.361 of 2017 of Mahabubnagar Rural Police Station, Mahabubnagar District, registered for the offence under Section 337 IPC.

The case of the petitioner is that on 15.09.2017 while he was coming from Deverakadara towards Mahabubnagar, husband of Respondent No.4 herein, who was in intoxicated condition, hit the divider and received injuries. On the strength of the complaint, after delay of 5 days i.e., on 20.09.2017, a crime was registered against him under Section 337 IPC and issued FIR.

It is contended by the learned counsel for the petitioner that the petitioner was proceeding on the other side of the road, but the accident was occurred due to self negligence of the injured and therefore, this petitioner is no way responsible for the accident. With a *mala fide* intention, the petitioner was enroped in the crime without any material, and he was only passing on the road on the other side and therefore, requested this Court to quash the proceedings against the petitioner herein.

The plea raised before this Court is a purely question of fact and whether he was present on the other side of the road or caused the accident cannot be decided in the present petition while exercising power under Article 226 of the Constitution of India,

but the counsel for the petitioner requested this Court to issue a direction not to arrest the petitioner. But, such request cannot be acceded for the reason that it amounts to grant of bail and it is contrary to the principle laid down by this Court in *Md.Ibrahim & Ors v. Andhra Pradesh*¹ .

Therefore, this Court cannot issue such a direction. However, the Police concerned are bound to follow the procedure contemplated under Section 41-A Cr.P.C., and the guidelines issued by the Apex Court in *Armesh Kumar v. State of Bihar and another*² . It is needless to say that violation of the directions would lead to contempt being filed before the Court having jurisdiction. Consequently, this Writ Petition is liable to be dismissed as the plea raised by the petitioner is a question of fact to be decided at the end of the trial.

Accordingly, this Writ Petition is disposed of.

Miscellaneous Petition, if any pending, in this case, shall stand dismissed.

M. SATYANARAYANA MURTHY, J

Date: 26-06-2018
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¹ (2009) 8 SCC 752

² 2014(8) SCALE 250

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