

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No.3416 of 2018

ORDER:

This criminal petition is filed under Section 438 Cr.P.C to grant pre-arrest bail to the petitioners/Accused Nos.1, 4 & 5 apprehending their arrest in connection with Crime No.55 of 2018 on the file of Seethanagaram Police Station, Rajamahendravaram Urban, East Godavari District, for the offences punishable under Sections 342, 323, 384 and 506 r/w.34 & Sections 3(1) (c) (e) (r) and 3(2) (va) of SC/ST (POA) Act, 1989 and Act No.1/2016.

The case of the prosecution in brief is that on 07.03.2018 at about 10.40 p.m, the *de facto* complainant, being reporter of CVR TV Channel, went to Kailasagiri Ramp of Singavaram, Seethanagaram Mandal along with Yalla Rama Krishna @ R.K.Naidu, ABC India News reporter, to find out sand mafia, its illegal transportation and transactions, on his new bike. One Kadiyala Paparao, 10-TV reporter also accompanied them. When they reached the scene of offence at 11 p.m, they found that the petitioners along with others loading sand with one JCB and illegally transporting the same. They recorded the same in their mobile phones. Noticing them, 6 persons, viz., (1) Matta Satyanarayana @ Matta Kapu, (2) Matta Manikanta @ Bangaram, (3) Karatapu Satish, (4) Vepakayala Krishna, (5) Matta Mani and (6) Matta Nani came with JCB jockey rods and abused them in filthy language, pointing their caste as "Maala Lanjakodukullara" and beat them. Thus, the petitioners are allegedly committed the offences, referred to supra.

The *de facto* complainant lodged a report before the jurisdictional police with the above averments. Basing on the said report, Cr.No.55 of 2018 was registered for the offences, referred to supra, and investigated into.

The present petition is filed under Section 438 Cr.P.C to grant pre-arrest bail to the petitioners on the ground that there is no material to conclude *prima facie* that the petitioners committed the offences, as alleged.

The learned counsel for the petitioners submits that the petitioners are not aware about the caste of the *de facto* complainant and others and thereby no *mens rea* is attributable to the petitioners and others and in the absence of *mens rea*, the petitioners are entitled to grant pre-arrest bail.

The learned Public Prosecutor for the State opposed the petition on the ground that investigation is not completed and there is bar under Section 18 of SC/ST (POA) Act, and hence the petitioners are not entitled to claim pre-arrest bail.

As seen from the First Information Report, the petitioners allegedly abused the *de facto* complainant and others raising their caste name as "Mala Lanjakodukullara", but the contention of the learned counsel for the petitioners is that the petitioners had no acquaintance with the *de facto* complainant and others, who allegedly belongs to Scheduled Caste and in the absence of such knowledge, the offences as alleged cannot be registered against them. The said aspect can be decided during course of trial, but not at this stage.

There is material against the petitioners pointing out complicity for the offences under the provisions of SC/ST (POA) Act.

Learned counsel for the petitioners placed reliance on the judgment of the Apex Court in *Dr. Subhash Kashinath Mahajan v. State of Maharashtra*¹, and contended that a preliminary enquiry is required to be conducted by the police officials as the accused is punishable for the offence punishable under SC/ST POA Act. But, this judgment is now under challenge before the Full Bench of the Supreme Court, since the Division Bench overlooked another judgment of the Supreme Court in *Manju Devi v. Onkarjit Singh Ahluwalia*² and passed order.

Therefore, as on today, the present petitioners are not entitled to claim pre-arrest bail, in view of material available on record to conclude that these petitioners committed the offences, stated above, *prima facie*.

In the result, the criminal petition is dismissed.

Pending miscellaneous applications, if any, shall stand closed in consequence.

M.SATYANARAYANA MURTHY,J

Date: 03.04.2018
Dsr

¹ SLP (Crl.) No.5661 of 2017 dated 30.03.2018

² 2017 Crl.L.J. 2879