

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY**CRIMINAL PETITION No.3488 of 2018****ORDER:**

This Criminal Petition, under Section 438 Cr.P.C, is filed by the petitioners/A.2 to A.5 to enlarge them on bail in the event of their arrest since they are apprehending arrest in connection with Crime No.49 of 2018 on the file of Munagala Police Station, Suryapet District, Telangana State, registered for the offences punishable under Sections 406, 409 and 420 IPC.

The petitioners are Accused No.2 to 5 and they are nearest relatives to Accused No.1. B. Ramapathi, the complainant, lodged a complaint with the police making specific allegations against the accused that Andhra Pradesh State Civil Supplies is procuring paddy in Andhra Pradesh from the farmers under minimum support price through distribution agencies i.e., District Rural Development Agency-Indira Kranthi Padham (IKP) groups and District Cooperative Office-Primary agriculture cooperative societies (PACS) and the same is delivered to designated Rice Mills for custom milling and after custom milling, the resultant paddy has to be delivered to Andhra Pradesh State Civil Supplies Cooperation Limited and the same is to be distributed to Below Poverty Line Card Holders under Public Distribution Scheme. During Rabi season i.e, 2014-2015, 519.240 metric tons of paddy was delivered through two paddy procurement centres and details are furnished hereunder:

1. IKP Munagala 501.240 MT
2. PACS Nadigudem 18.000 MT

Total: 519.240.

Against the quantity supplied for custom milling for paddy supply during Rabhi season-2014-2015, the rice miller, in turn, has to deliver custom milling rice @68% i.e., 353.083 Mts of boiled rice or 67% i.e., 347.891 Mts of raw rice, but the rice miller delivered 27.00 Mts of boiled rice to Food Corporation of India and 26.900 mts of raw rice to Civil Supplies Corporation within due date i.e., 30.11.2015, and the balance 298.782 mts of MCR Rice to be delivered, which is equivalent to quantity of 439.385 Mts of paddy. The economic cost of 439.385 of paddy is around to Rs.80,92,758/-. Thus, the petitioner committed an offence punishable under Sections 406, 409 and 420 IPC.

All the petitioners are relatives and they are the alleged partners of rice mill, but the contention of the petitioners is that they are not responsible for the offences levelled against them and they did commit no offence punishable under Sections 406, 409 and 420 IPC and therefore, they cannot be made liable criminally as they are not having direct control over the business transactions of the mill and prayed to enlarge the petitioner on pre-arrest bail.

The learned Public Prosecutor for the State of Telangana contended that failure to redeliver the rice after custom milling is nothing but an offence punishable under Section 406 IPC i.e., criminal breach of trust and other offences and prayed to dismiss the petition.

As seen from the material on record, the petitioners are the partners, who are absconding since 05.03.2018 apprehending their arrest in connection with Cr.No.49 of 2018 and accused No.1 paid Rs.10 Lakhs as part of value of the paddy supplied or the value of the rice to be supplied to the corporation. Payment of Rs.10 lakhs to the Society or to the concerned is suffice to conclude that the miller committed an offence punishable under Section 406 as there is a direct entrustment of

paddy for custom milling to the mill and committed default in re-delivery of the rice after custom milling. But whether these petitioners are directly connected with day to day affairs of the mill is a question to be decided at appropriate time. However, as the material disclosed that the petitioners has paid Rs.10 Lakhs towards the rice agreed to be supplied after custom milling is suffice to conclude that A.1 and others, who are partners of the mill, are liable to be proceeded under Criminal Law for the offences under Sections 406, 409 and 420 IPC.

Every partner is liable for the act of the other partner in view of the implied authority conferred on them by virtue of provisions of Indian Partnership Act. Therefore, at this stage of the matter, it is not possible to decide that these petitioners are not directly participating in the business affairs of the mill. As there is material directly pointing out the complicity of the petitioners regarding misappropriation to attract the offence punishable under Section 406 IPC, I am of the view that it is not a fit case to grant pre-arrest bail to the petitioners.

Accordingly, this Criminal Petition is dismissed.

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

M. SATYANARAYANA MURTHY, J

Date: 03-04-2018
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HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY



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