

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL PETITION No.4185 OF 2018

ORDER:

The petitioner/A.1 in Crime No.83 of 2017 of Angara Police Station, East Godavari District, apprehending his arrest filed this criminal petition under Section 438 of the Code of Criminal procedure, 1973 (for short 'CrPC'), to issue a direction to the Station House Officer, Angara Police Station, to release him on bail in the event of his arrest in connection with the above crime registered for the offence punishable under Sections under Section 417 and 420 read with 34 of the Indian Penal Code, 1860 (for short 'IPC').

It is the case of the prosecution that on 03.09.2017 one Srirama Manikanta Uppalapati lodged a complaint against the petitioner and another alleging that himself and the petitioner/A.1 were classmates. Father of the petitioner promised him to provide an employment in Endowment Department and demanded him to pay an amount of Rs.8,00,000/-. It is further alleged that on 14.03.2016 at about 9.30 p.m. the petitioner and his father collected an amount of Rs.4,00,000/- at his house, after three months, he deposited an amount of Rs.38,000/- in the account of the petitioner for certificates verification. In all he gave an amount of Rs.4,38,000/- to the petitioner and his father, by the date of lodging the complaint. But the petitioner and his father did not provide any employment as promised. Basing on the complaint, the police registered the crime and issued F.I.R.

The main contention of the petitioner is that there are financial transactions between himself and the *de facto*

- 2 -

complainant and in connection with the discharge of hand loan due to him, the complainant deposited an amount of Rs.38,000/- in his account, he is not concern with the promise allegedly made by his father to provide employment to the complainant, and therefore, the allegations would not constitute any offence and no *prima facie* material is available on record to conclude that the petitioner did commit offence much less an offence punishable under Sections 417 and 420 of IPC.

Learned counsel for the petitioner reiterated the contentions in the petition.

Whereas the Public Prosecutor (A.P.) opposed the petition on the ground that the investigation is not completed and it is a serious fraud against the unemployed youth.

As seen from the allegations made in the complaint, a promise is made by the petitioner and his father, to provide employment in Endowment Department on payment of Rs.8,00,000/- and the *de facto* complainant allegedly paid Rs.4,00,000/- at his residence on a particular day and later deposited Rs.38,000/- to the credit of the account of the petitioner. The petitioner did not deny the alleged deposit, but contended that the *de facto* complainant deposited an amount of Rs.38,000/- towards discharge of the hand loan obtained from him.

A specific contention is raised in paragraph 4 of the petition that the petitioner is a businessman and there were financial transactions between himself and the *de facto* complainant, the deposit was only towards discharge of the hand loan, but the

- 3 -

petitioner did not disclose the details of the hand loan and no material is produced to support his contention.

In the absence of any details, it is difficult to believe that the amount was deposited in view of the alleged transaction between the petitioner and the *de facto* complainant. Therefore, collection of amount from the *de facto* complainant in order to provide employment in the Endowment Department, though he is incompetent to provide such employment, would constitute an offence under Section 420 IPC as he made the complainant to depart huge amount. Hence, *prima facie*, there is a material against the petitioner for the offence referred above and consequently, the petition is liable to be dismissed.

In the result, the criminal petition is dismissed.

M. SATYANARAYANA MURTHY, J

Date: 18.04.2018
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