

HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRL.P.No.4294 OF 2018

ORDER:

This criminal petition is filed under Section 438 Cr.P.C to grant pre-arrest bail to the petitioners/Accused in Crime No.46 of 2018 of Kothavalasa Police Station, Vijayanagaram District, registered for the offences punishable under Sections 353, 506 read with 34 IPC.

The case of the prosecution is that the *de facto* complainant, who is the Mandal Surveyor while conducting survey on 22.02.2018 at about 10.30 AM along with VRO, Chinthalapalem Revenue in Survey No.449/9, the petitioners removed the survey stones while abusing the *de facto* complainant and others and prevented the *de facto* complainant being a public servant from discharge of his duties and thus committed the above offences.

The present petition is filed on the ground that the petitioner did commit no offence and that at the instance of Uppada Venkataramana, the *de facto* complainant lodged complaint to wreck vengeance against the petitioners and that there is every reasonable apprehension that they will be arrested in the above crime and sought for pre-arrest bail.

During hearing, learned counsel for the petitioners vehemently contended that to constitute the offence punishable under Section 353 IPC, there must be an assault or criminal force to deter public servant from discharge of his duty. In the absence of any allegations that the petitioners assaulted the *de facto* complainant and no material is collected to conclude *prima facie* that

the petitioner committed the above offences and prayed to enlarge the petitioners on pre-arrest bail.

Whereas, learned Additional Public Prosecutor opposed the petition and drawn the attention of this Court to Section 353 IPC and the allegations made in the complaint while contending that the acts attributed to the petitioners would constitute above offences and prayed to dismiss the petition.

Bare reading of the contents of the complaint on record, the *de facto* complainant being a Mandal Surveyor discharging his duty at 10.30 AM on 22.02.2018 and conducting survey, the petitioners removed the boundary stones fixed by the *de facto* complainant and abused in filthy language while saying that nobody would come to their rescue, in case they are killed and prevented from conducting survey. Therefore, the act of the petitioners would *prima facie* constitute offence permissible under Section 353 and 506 IPC. Therefore, the contention that the specific overt acts attributed to the petitioners would not constitute *prima facie* offence is without any substance. As such the material on record, *prima facie* pointing out the complicity of the petitioners and I find that it is not a fit case to grant pre-arrest bail and consequently, the criminal petition is liable to be dismissed.

In the result, the criminal petition is dismissed.

Pending miscellaneous petitions in the petition, if any, shall stand closed.

M.SATYANARAYANA MURTHY,J

18.04.2018
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