

HON'BLE DR. JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION No.5149 OF 2018

ORDER:

The petitioner is A-1 among more than two accused of Crime No.90 of 2018 of Mannur Police Station of Y.S.R. Kadapa District, registered for the offences punishable under Sections 341, 323, 324, 427 R/w.34 of I.P.C. and Section 3(1)(r)(s) of the of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Amendment Act, 2015 (for short, 'the Act').

The occurrence was on the mid night of 18/19.03.2018 and the report given and crime registered on 19.03.2018 at 11:00 A.M. and the distance from the Police Station to the place of occurrence is mentioned 4 K.Ms and the wound certificates of *de-facto* complainant Seeli Ramanjaneyulu and his owner of the tractor by name M.Vishnu Vardhan Reddy respectively show admitted at about 00:30 A.M. of that intervening night and so far as the *de-facto* complainant concerned, the wound certificate speaks blunt injury to left face, which is an abrasion/contusion, simple in nature; and of Vishnu Vardhan Reddy shows abrasion over right cheek and another abrasion, which is illegible, and mentioned as the injuries 1 and 2 are simple.

The contentions of the petitioner are that it is a false case foisted by misuse of the provisions of the Act and the petitioner, leave about other accused are innocent.

Learned Public Prosecutor opposed the bail application.

Attention is drawn to the Court from the contents of the very report which reads on that day at about 12:30 to 01:00 A.M., while the *de-facto*

complainant was driving the tractor bearing No.AP-04-TU-7098 in Poli village, in connection with the Ugadi festival of Sri Pothu Kondrayudu Swamy by keeping the idol of the deity for the utsav in the tractor, and moving around the village, as part of the festival (Thiruveedhi), when reached near the house of one Peta Kondaiah, the villagers M. Suresh Reddy (the petitioner's name is M.Suresh Kumar Reddy), M.Viswanath Reddy and their followers obstructed the tractor and asked the *de-facto* complainant Ramanjaneyulu to get down and out of fear he got down, went to them and questioned as to why they obstructed, they abused him touching the caste, in the presence of the villagers, by insulting him and when he was proceeding on the tractor therefrom, they again abused in caste name and dragged him down from the driver's seat of the tractor and with hands and legs indiscriminately beat and caused several injuries. The tractor owner Vishnu Vardhan Reddy when came to the rescue, they abused him and also beat him on his right side face and left side face with stones and caused several bleeding injuries and not only that all of them again indiscriminately beat him and the villagers came to the rescue and sent them inside the house of Peta Kondaiah and closed the gate. However, these persons and their followers even damaged the house gate by pelting big boulder stones and not only damaged the gate of the house but also created panic in them, hence, to take action.

It is the submission of the learned Public Prosecutor that once there is *prima-facie* accusation of an abuse in public view, it attracts the offence under Section 3 of the Act and there is a bar for the very maintainability of the anticipatory bail application.

It is the submission of learned counsel for the petitioner that it is a false accusation and the facts are engineered and a close reading of the material discloses the same.

As referred *supra*, from the very report, the *de-facto* complainant says he was beaten indiscriminately once and again after beating the owner of the vehicle by name Vishnu Vardhan Reddy, by causing bleeding injuries, he was again beat indiscriminately. However, as referred *supra*, there is only one blunt injury of abrasion on left face he sustained and there are no other injuries from the medical report of he was examined by the doctor by 12:30 i.e., 00:30 A.M. and the F.I.R. speaks of the occurrence is between 00:30 to 01:00 hours. Leave it as it is, even coming to the so called injuries sustained by Vishnu Vardhan Reddy, there are only two abrasions, as referred *supra*, one is illegible and the other is on the right cheek, which are simple and what is mentioned of several bleeding injuries indiscriminately caused including by pelting stones is not correct, as pointed out by learned counsel for the petitioner.

In view of the same and also from a perusal of the case diary, there is nothing to show from the preparation of the sketch as to any scene observation report finding any damage to the house gate from the boulder stones mentioned in the very report as pelted, it is premature to observe anything more so far as the bail application concerned though pending investigation even for consideration of the bail application, the Court is entitled to consider as to sustainable *prima-facie* accusation or not. Leave it as it is, though it is the contention of the learned counsel for the petitioner by placing reliance on the recent Apex Court expression in ***Dr. Subhash Kasinath Mahajan Vs. The State of Maharashtra and others***¹, that irrespective of the bar under Section 18 of the Act, there is no total bar in exceptional cases to consider the anticipatory bail; thereby, the petitioner is entitled to anticipatory bail but for to say the judgment is a binding precedent, this Court feels not a fit case to apply the said

¹ 2018 (2) ALT (50) SC

principles to the facts herein; thereby, the very application is disposed of rather than dismissal, in view of the factual matrix *supra*, by giving liberty to the petitioner to surrender before the learned Magistrate concerned and file an affidavit of the surrender in proof of the bail application to be filed before the special Court with notice to the learned Public Prosecutor concerned for granting of the bail with necessary conditions by virtue of this order which includes the conditions as to direction to appear before the Police for purpose of investigation and make available, and after filing of final report in the event of charge sheet and taking of cognizance for assurance of the availability to safeguard by reporting before Police Station once in a month or so, and furnishing of any bank account and property particulars and submission of the passport if at all *etc.*

Accordingly, with the above observations, the Criminal Petition is disposed of.

In consequence, miscellaneous petitions, if any, pending in this Petition shall stand dismissed.

Dr. B.SIVA SANKARA RAO, J

Date: 08.06.2018.
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HON'BLE DR. JUSTICE B.SIVA SANKARA RAO

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