

HON' BLE DR. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.6459 of 2018

ORDER:

This criminal petition is filed under Section 438 Cr.P.C. by the petitioners/ A1 to A5, seeking release in the event of their arrest in connection with Crime No.214 of 2018, dated 03.06.2018 of Vemulawada Police Station, Rajanna Sircilla District, registered for the offences punishable under Section 506 r/w 34 I.P.C. and Section 3(1)(r)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (for short 'the Act'),

2. Heard learned counsel for the petitioners and learned Public Prosecutor representing the State and perused the F.I.R., bail application averments and other material on record.

3. The alleged occurrence taken place on 02.06.2018 at 11.00 a.m. A perusal of the very report shows that the de facto complainant, who belongs to a scheduled caste sought information under Right to Information Act from the Special Officer-cum-Tahsildar, Chandurthy and also Revenue Divisional Officer, Sircilla, regarding R.R.Colony, Kodumunja Village house pattas and payment of compensation of the houses inundated at Midamanuru, and the said information was not furnished even days lapsed. While so, on 02.06.2018,

at about 11.00 a.m., the accused sent a word from A1, when went there, abused touching his caste questioning of seeking information under Right to Information Act from the Tahsildar and Revenue Divisional Officer and also threatened to see the end taking advantage of his loneliness and thrown his cell with a demand to take back the right to information application else to do away and he mentioned about 5 or 6 persons also present there. Hence, to take action.

4. Learned counsel for the petitioners submits that it is a false accusation and outcome of political differences.

5. Learned Public Prosecutor opposed the bail application saying the investigation is in progress and there is a bar for anticipatory bail from accusation, which shows attracting of the provisions of the Special Act.

6. It is not even a case of the de facto complainant was beaten when at their mercy but for saying to withdraw the application filed by him under Right to Information Act by touching of caste and thrown the cell. However, the fact remains that at the time of abuse touching his caste intentionally for that purpose, which is in public view from 6 or 7 persons present, thereby, *prima facie*, if the bar under Section 18 of the Act attracts, even though, otherwise entitled to the concession of anticipatory bail. It is needless to say, as none of the offences are punishable above seven

years, the police are bound to follow Section 41-A Cr.P.C. and the expression of the Apex Court in *Dr. Subhash Kashinath Mahajan v. State of Maharashtra*¹, and if at all any arrest of the petitioners is required, they have to take permission from the Superintendent of Police of the District concerned.

7. Accordingly, the Criminal Petition is disposed of. However, this order does not prevent the petitioners to surrender and move for regular bail with notice to the Special Public Prosecutor and the same may be considered on the same day, preferably.

8. Consequently, miscellaneous petitions, if any shall stand closed.

JUSTICE Dr. B. SIVA SANKARA RAO

Date: 16.07.2018
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¹ 2018 (2) ALT 50 SC