

HON'BLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION No.6969 OF 2018

ORDER:

The petitioner is the sole accused in crime No.413 of 2018 of Vanasthalipuram Police Station, Ranga Reddy District, registered for the offences punishable under Sections 448 & 427 IPC and Section 3(1)(r)(s) of SC & ST (POA) amended Act.

It is from the report of the defacto complainant saying she borrowed from the accused about Rs.1,00,000/- and accused taken from her one blank cheque and pro-note and he received back the amount and returned only the pro-note and promised to return back the cheque stating it was misplaced and not traced in the house by make believing her and later after one month she asked about return of the cheque, she was abused touching her caste with intention to insult. The report further reads while so on 02.02.2018 which is 100 days prior to the report when no body at the house she was alone the accused forcibly trespassed into the property and by break open the house locks and he got the documents in relation to the house property at the time of lending and she apprehend danger in his hand, hence to take action.

Heard learned counsel for the petitioner and learned Public Prosecutor representing the State opposed the bail application.

It is true there is force in the contention of the learned counsel for the petitioner that none of the provisions of Section 3(1)(r)(s) of the Act that are applicable to the facts of the case for no public view mentioned nor any date and time and place of the alleged abuse of touching the caste for questioned about the cheque in question.

It was happened even more than 100 days prior to the report. So far as the report further speaks regarding the alleged trespass by break open the locks of the house 100 days prior to the report concerned, report is not immediately given and there is no explanation for the waiting. However as pointed out by the learned Public Prosecutor prima facie Section 3(1)(g) of the Act and from trespass in the house of the person belongs to SC or ST by dispossessed her forcibly.

Having regard to the above, though otherwise anticipatory bail can be granted in view of the expression of the Apex Court in **Dr. Subhash Kashinath Mahajan v. State of Maharashtra**¹, this case is not an exception from the above.

Accordingly and in the result, this Criminal Petition is disposed of by giving liberty to the petitioner to surrender before the learned Magistrate and move for regular bail with notice to the learned Public Prosecutor before the Special Judge with affidavit for surrender to grant the regular bail with necessary conditions preferably on the same day.

¹ 2018 (2) ALT 50 SC

Needless to say if at all any arrest is required, the Police strictly follow Section 41-A Cr.P.C. and the guidelines of the Apex Court as laid down in **Arnesh Kumar v. State of Bihar²**.

Miscellaneous petitions, if any, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date: 25.07.2018
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² (2014 (2) ALT (CrI.) 457 SC)