

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.8316 of 2018

ORDER :

This criminal petition filed under Section 438 Cr.P.C. by the petitioners/A.1 and A.2 in Crime No.184 of 2018 of Nuzvid Town Police Station, Krishna District, registered for the offence punishable under Section 3 (1)(r)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015 (for short, 'the SC/ST Act').

2. Heard learned counsel for the petitioners and learned Special Assistant Public Prosecutor, representing the State, in opposing the same, and perused the First Information Report (F.I.R.), bail application averments and the earlier F.I.R. in Crime No.183 of 2018 almost for the selfsame incident with some additional facts.

3. There is a force in the contention of the learned counsel for the petitioners that having not mentioned about the incident spoken in the present report in the earlier report of the alleged occurrence on the previous day covered by Crime No.183 of 2018, the second report is nothing but an abuse of process, leave about there is no public view from the very reading of the present report of Crime No.184 of 2018 to attract Section 3(1)(r)(s) of the SC/ST Act.

4. The learned Special Assistant Public Prosecutor drawn attention to line Nos.4 to 7 of the F.I.R. saying there is a public view from the

presence of one Daveedu and Suresh examined as LWs. 2 and 3 from perusal of the investigation material.

5. No doubt, the expression of the Apex Court in **Dr.Subhash Kashinath Mahajan v. State of Maharashtra**¹, says the question of arrest does not arise without permission of the Senior Superintendent of Police for other than official accused and where the accused is in service from the permission of the employer who got power to remove. It was also observed of Section 18 of the SC/ST Act is not a bar where there is a exceptional case to grant anticipatory bail. However, this could not be concerned as an exception laid down in the above expression, but for to say, pursuant to the above expression the question of arrest does not arise without permission of the Superintendent of Police even of any of the accused.

6. Having regard to the above and subject to the above observation, as it is not a fit case to grant anticipatory bail, the criminal petition is disposed of, rather than dismissal, giving liberty to surrender before the learned Magistrate concerned and move for regular bail application before the Special Judge concerned with affidavit of surrender with notice to Special Public Prosecutor concerned, for granting bail with necessary conditions on the same day, that too when accused in Crime No.183 of 2018 were already arrested and enlarged on bail.

¹ 2018 (2) ALT 50 SC

Miscellaneous petitions pending, if any, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

16th August 2018.

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