

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

Criminal Petition No.9019 OF 2018

ORDER:

The petitioners are A1 & A2 in Crime No.228 of 2018 on the file of Sircilla Police Station, Rajanna Sircilla District. The crime is registered for the offences punishable under Sections 323, 504 IPC and Section 3(1)(r)(s) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015 (for short, “the Act”).

2. The sum and substance of the accusation from the report dated 01.08.2018 of the *de facto* complainant, who belongs to SC Madiga community, is that in the name of his father an extent of Ac.0.04 guntas of agricultural land is there in Survey No.1074 at Chandrampet Village of Sircilla Mandal. When the accused persons A.Srinivas and M.Rajesham on 27.07.2018 at about 4.00 P.M. at the Sub-Registrar Office tried to register the said property standing in the name of the father of *de facto* complainant and when the *de facto* complainant resisted, they abused by touching the caste and both of them beat him with chappal and even Beemanapalli Anjaiah came to the rescue of the *de facto* complainant, the accused persons also beat said Anjaiah with chappal and the entire incident was recorded in C.C. camera in the presence of witnesses there and hence, to take action in saying immediately on that day i.e., 27.07.2018 report could not be given and thereby giving on 01.08.2018 that was registered at 6.00 P.M. on 01.08.2018.

3. The contentions in the anticipatory bail application are that it is a false report foisted with a viewed story with belated embellishments to misuse and abuse the provisions of the Act taking advantage of the *de facto* complainant as SC and the accused persons are non-SCs and none of the ingredients under Section 3(1)(r)(s) of the Act are applicable and there are no words actually used by the alleged accused mentioned, leave about not mentioned of the accused belongs to non-SC and hence, the petitioners are entitled to the concession of anticipatory bail.

4. Heard the learned counsel for petitioners and the learned Additional Public Prosecutor representing the State of Telangana and perused the F.I.R., the bail application averments and the case diary.

5. The learned Additional Public Prosecutor opposed the anticipatory bail application from its very maintainability also by referring to the amended Act 27 of 2018 introducing Section 18A(1).

6. This Court in Crl.P.No.9119 of 2018 by order dated 31.08.2018 in **K.Srinivas @ Sivaswamy v. The State of Andhra Pradesh** discussed the law including the amendment and came to the conclusion that the application besides maintainable otherwise can be taken under Section 482 Cr.P.C. to consider on merits whether the bar under Section 18 of the Act is attracted or not. Once such is the case, coming to the facts though the words abused not mentioned to attract Section 3(1)(s) of the amended Act, Section 3(1)(r) of the Act clearly speaks intentional insult or intimidation there from the very F.I.R.

showing beat with chappal not only the *de facto* complainant but also the other person Anjaiah when came to his rescue. A perusal of the case diary shows the statement of said Anjaiah also. Once such is the case, even the application taken under Section 482 Cr.P.C. if not under Section 438 Cr.P.C. from Section 3(1)(r) of the Act applies if taken on face value the accusation, there is a bar to the grant of anticipatory bail. However, coming to the facts further, there is a delay in reporting occurrence and what the *de facto* complainant mentioned the property claimed by the accused of already alienated to them and it is a false case foisted.

7. Taking into consideration of the above facts and the other offences under Sections 323 & 504 IPC are bailable offences, the anticipatory bail application rather granting, from not entitled can be disposed of.

8. Accordingly, this Criminal Petition is disposed of by giving liberty to the petitioners to surrender before the learned Special Judge concerned and move for regular bail with notice to the learned Public Prosecutor to consider for granting with necessary conditions preferably on the same day.

Dr. B. SIVA SANKARA RAO, J

11.09.2018

MVA