

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION NO.10378 OF 2018

ORDER:

This criminal petition is filed under Section 482 of Criminal Procedure Code (for short "Cr.P.C.") to quash the Crime/F.I.R.No.300 of 2018 on the file of Chillakur Police Station, SPSR Nellore District, registered for the offences punishable under Sections 452, 354-A and 506 of Indian Penal Code (for short "I.P.C.")

Learned counsel for the petitioner after arguing for sometime, requested this Court to direct the police to follow the procedure laid down under Section 41-A of Cr.P.C and guidelines formulated by the Apex Court in ***"Arnesh Kumar v. State of Bihar¹"***.

Sri P.Narahari Babu, who received instructions from respondent No.2, opposed to issue direction as sought for by the learned counsel for the petitioner on the ground that the statement of victim under Section 164 of Cr.P.C. was recorded and it discloses the commission of offence punishable under Section 376 of I.P.C. and four (4) cases are registered against the petitioner herein.

The name of Sri P.Narahari Babu is not printed in the cause list. Moreover, no material was placed on record to conclude that the petitioner committed serious or grave offence punishable under Section 376 of I.P.C. The offence allegedly committed by the petitioner is punishable under Sections 452, 354-A and 506 of I.P.C. In the absence of any material to show that the petitioner committed serious or grave offence, it is difficult to reject the request of the learned counsel for the petitioner.

Even if, no direction is given as requested by the learned

¹ (2014) 8 SCC 273

counsel for the petitioner, it is the duty of the police to follow procedure laid down under Section 41-A of Cr.P.C and guidelines formulated by the Apex Court in **“Arnesh Kumar v. State of Bihar”** (referred supra) when the offence allegedly committed by the petitioner is punishable with imprisonment less than 7 years. Even if the statement of the victim is available, unless the Section of law was altered by filing a memo before the Magistrate, the direction sought for by the petitioner cannot be denied.

Hence, acceding to the request of the learned counsel for the petitioner and without touching the merits of the case, I deem it appropriate to direct the police to follow the procedure laid down in Section 41-A of Cr.P.C. and guidelines prescribed in **“Arnesh Kumar v. State of Bihar”** (referred supra). It is needless to mention that the Supreme Court made it clear that violation of guidelines in **“Arnesh Kumar v. State of Bihar”** (referred supra) amounts to Contempt of Court action. Therefore, the Investigation Agency is bound to adhere to the guidelines formulated by the Apex Court in **“Arnesh Kumar v. State of Bihar”** (referred supra).

With the above directions, the petition is disposed of. No costs.

Consequently, miscellaneous petitions pending, if any, shall also stand dismissed.

JUSTICE M. SATYANARAYANA MURTHY

28.09.2018
Ksp