

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

WRIT PETITION No.7003 OF 2019

ORDER:

This Writ Petition, under Article 226 of the Constitution of India, is filed by the petitioner seeking to declare the action of respondent No.2 in not issuing notice under Section 41A Cr.P.C., by colluding with respondent No.3, and registering false complaint vide Crime No.49 of 2018 of Kodad Town Police Station, Suryapet District, for the offences punishable under Sections 406, 420, 465, 468 and 471 I.P.C., as illegal and arbitrary, and consequently, to direct respondent No.2 not to arrest the petitioner and issue notice under Section 41A Cr.P.C.

2. Heard learned counsel for the petitioner and perused the record.

3. Learned counsel for the petitioner would contend that the petitioner is made as an accused without there being any material; that the decision rendered in *Arnesh Kumar v. State of Bihar and another*¹ is required to be followed; that based on a false report filed by respondent No.3/Manager of Corporation Bank, Kodad Branch, the subject crime is registered; that the petitioner is being called to the police station again and again for no reason; that the petitioner has no efficacious remedy, except to invoke the jurisdiction of this Court under Article 226 of the Constitution of India and ultimately, prayed to allow the Writ Petition, as prayed for.

¹ 2014 (8) SCC 273

4. The subject crime is registered based on a report lodged by respondent No.3/Manager of Corporation Bank, Kodad Branch, alleging that the Bank used to provide loans under various schemes to the needy people; that certain farmers of Palavaram Village obtained loans from the Bank; and that when an enquiry was conducted with the Tahsildar concerned, it has come to light that some persons obtained loans by forging and creating fake pattadar pass books, so as to make wrongful gain. The petitioner is one among them.

5. There are specific and grave allegations against the petitioner. The prayer in the Writ Petition is to direct the Station House Officer, Kodad Town Police Station, to issue notice under Section 41A Cr.P.C. When the arrest of an accused is not required under Section 41 (1) Cr.P.C., then a notice under Section 41A Cr.P.C. is required to be issued, but, it is subject to the satisfaction of the Investigating Officer, basing on the record available with him. No material is placed on record to show that the arrest of the petitioner is not required in the subject crime in terms of Section 41 (1) Cr.P.C. Under these circumstances, it is not appropriate to consider the prayer of the petitioner. The Writ Petition is devoid of merit and is liable to be dismissed.

6. Accordingly, the Writ Petition is dismissed.

Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed. There shall be no order as to costs.

April 09, 2019.
MD

Dr. SHAMEEM AKTHER, J