

**THE HON'BLE JUSTICE G.SRI DEVI**

**Criminal Petition No.7173 of 2019**

**ORDER:**

This criminal petition is filed by the petitioner/A4 under Section 482 of Cr.P.C., seeking to quash the proceedings in Cr.No.145 of 2016 on the file of Achampet Police Station, Mahaboobnagar District, registered for the offences under Sections 384, 385, 386, 120-B IPC and under Section 25(1)(A) and 27 of Arms Act, against him.

2. Heard the learned counsel for the petitioner/A4; learned Additional Public Prosecutor for the 1<sup>st</sup> respondent-State and perused the record.

3. It is alleged in the complaint that the de-facto complainant was doing fertilizer business at Achampet and that on 22.07.2016 and 24.07.2016 at morning hours, some persons came to him and told him to meet Nayeem for the purpose of business, and in this connection, they regularly tortured him through telephone; and finally, on 25.07.2016 morning at 6.00 AM, the de-facto complainant and one Sardar-A3 went to Hyderabad from Achampet, got down at Sagar Ring Road. Thereafter, they boarded a vehicle (white Scorpio), which was parked along with driver, and the de-facto complainant was asked to close his eyes by putting head down and switch off his mobile, and again they shifted him to one ash colour Innova vehicle, where two more persons were present; later, they proceeded to the house, where he found four female and three male persons armed with deadly weapons; and that again they shifted him

to another room, where one male and female persons were seated and they stated that they are fighting against maoist and they were curbing the menace of Maoist in Nallamalla area, and told him to join one of his sons in their group or purchase 4 to 5 weapons from Chattishgad and Jartkhand State or to give an amount of Rs.2 Crores; otherwise, they would kill his son, and after negotiations, the de-facto complainant agreed to give a sum of Rs.60 lakhs on 31.07.2016 or 01.08.2016 and the accused obtained his signatures on white paper of said dates and later, dropped him at the same place where he boarded.

4. Learned counsel for the petitioner/A4 submits that the petitioner has been implicated falsely in the present crime as he never involved in any crime either directly or indirectly. He further submits that the petitioner is working as Electrical Mechanic on daily wage basis and he has nothing to do with the alleged offence; and that A2 and A9 were already released on anticipatory bail vide order dated 07.06.2019 in Crl.M.P.No.427 of 2019 and A7 was also released on anticipatory bail vide order dated 09.07.2019 in Crl.M.P.No.526 of 2019. He further submits that the earlier applications filed by the petitioner for anticipatory bail were dismissed by the Court below and also the Hon'ble High Court and that due to dismissal of those petitions, the police are harassing the petitioner by visiting his house and his entire family apprehends the arrest of the petitioner.

5. Learned Additional Public Prosecutor opposed the prayer for quashing of the F.I.R., and submits that the contents of FIR would

disclose the cognizable offence against the petitioner and therefore, the FIR cannot be quashed on the ground that the earlier applications for anticipatory bail filed by the petitioner were dismissed.

6. After considering the various decisions including the decision of **State of Haryana v. Bhajan Lal**<sup>1</sup>'s Case, I am of the view that there can be no interference with the investigation or order staying arrest of the petitioner unless cognizable offence is not ex-facie discernable from the allegations contained in the FIR or there is any statutory restriction operating on the power of the police to investigate a case. From a perusal of the F.I.R., *prima facie*, it cannot be said that no cognizable offence is made out. Hence, no ground exists for quashing of the F.I.R or staying the arrest of the petitioner. Moreover, two consecutive applications filed by the petitioner to enlarge him on anticipatory bail were dismissed by the Court below as well as this Court

7. Accordingly, the Criminal Petition is dismissed.

8. However, after considering the facts and circumstances of the case, it is provided that if the petitioner/A4 surrenders before the Court below within a period of fifteen days from today and move an application for bail, his prayer for bail shall be considered in accordance with law after giving due notice to the Public Prosecutor. However, if the petitioner/A4 fails to surrender before the Court

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<sup>1</sup> 1992 SCC (Crl.)426

below within the stipulated time, coercive steps shall be taken against him.

9. With the aforesaid direction, the Criminal Petition is disposed of.

10. Pending miscellaneous petitions, if any, shall stand closed in the light of this final order.

**JUSTICE G.SRI DEVI**

11<sup>th</sup> November, 2019.

sj



