

HON'BLE Dr.JUSTICE CHILLAKUR SUMALATHA

CRIMINAL PETITION No.10356 of 2022

ORDER:

1. Seeking pre-arrest bail, the petitioners, who are arrayed as Accused Nos.1 & 2 in Crime No.1724 of 2022 of Rajendranagar Police Station, Cyberabad District, are before this Court.

2. Heard Sri Mohd. Muzaffer Ullah Khan, learned counsel for the petitioners as well as the learned Additional Public Prosecutor who is representing Respondent No.1. Notice sent to Respondent No.2 returned unserved with an endorsement "Want of Door Number". Learned counsel for the petitioners states that notice was sent to the address given in the complaint. Record discloses justification in the said submission. Furthermore, learned counsel for the petitioners seeks permission to not press the Criminal Petition so far as the petitioner No.1/Accused No.1 is concerned. Permission as prayed for is accorded. Thus, the Criminal Petition stands dismissed as far as petitioner No.1/Accused No.1 is concerned.

3. The submission of the learned counsel for the petitioners is that the provisions of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act does not attract to Petitioner No.2/Accused No.2.

4. Making his submission, learned counsel for petitioner No.2/Accused No.2 contends that the petitioner No.2 is the mother of petitioner No.1 and she has not committed any offences whatsoever as indicated in the First Information Report and Police are trying to arrest petitioner No.2 arbitrarily and therefore, the petitioner No.2 is before this Court.

5. On the other hand, the submission of the learned Additional Public Prosecutor is that petitioner No.2/Accused No.2 refused to perform the marriage of petitioner No.1/Accused No.1 with the 2nd respondent/*de facto* complainant, who belongs to the Scheduled Caste.

6. The matrix of the case as could be perceived through the material available on record is that petitioner No.1/Accused No.1 informed Respondent No.2/*de facto* complainant that he fell in love with her and proposed to

marry her. Thereafter, he participated in the sexual intercourse with her. Subsequently, they both lived in a single room. Later, petitioner No.1/Accused No.1 refused to marry her on the ground that his mother i.e. petitioner No.2/Accused No.2 did not give consent as she belongs to Scheduled Caste.

7. As per the contents of the First Information Report, the petitioners were alleged to have committed offences punishable under Sections 376(2)(n), 420, 417 IPC and Sections 3(2)(v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act. But Section 376 IPC does not attract so far as petitioner No.2/Accused No.2 is concerned. Therefore, this Court is of the view that *prima facie* Section 3(2)(v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act does not attract to the alleged acts of petitioner No.2/Accused No.2.

8. Therefore, this Court is of the view that the bar under Section 18 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act does not attract to the case concerned. Also, having considered the facts of the case and more so the allegations that are directed against

the petitioner No.2/Accused No.2 which are not so grave in nature, this Court is of the view that the request of the petitioner No.2/Accused No.2 can be honoured, however, conditionally.

9. Resultantly, the Criminal Petition is allowed with the following conditions:

- (i) The petitioner/Accused No.2 is directed to surrender before the concerned Court within ten (10) days. On such surrender, she shall be enlarged on bail on her executing a personal bond for Rs.30,000/- (Rupees Thirty Thousand only) with two sureties for like-sum each to the satisfaction of the Court concerned. The sureties are directed to submit their two latest passport size photographs at the time of furnishing solvency. One such photograph is ordered to be pasted in the Surety Register against the name of the surety. The other photograph shall be kept in the case record concerned.
- (ii) The petitioner/Accused No.2 shall report before the Station House Officer, Rajendranagar Police Station, Cyberabad District, on every Monday between 10.30 a.m. and 12:00 p.m. till filing of final report.

- (iii) The petitioner/Accused No.2 should not involve in any unlawful activity.
- (iv) The petitioner/Accused No.2 should afford all assistance for the proper investigation of the case.
- (v) The petitioner/Accused No.2 should not cause the evidence of the offence disappear.
- (vi) The petitioner/Accused No.2 should not tamper with the evidence in any manner.
- (vii) The petitioner/Accused No.2 should not by way of inducement, threat or promise, dissuade any person who is acquainted with the facts of the case, from disclosing such facts to the Court or to the Police Officer.
- (viii) In case the petitioner/Accused No.2 holds a passport, she shall surrender the same.
- (ix) The petitioner/Accused No.2 should ensure her presence whenever required by the Court or Police.
- (x) The petitioner/Accused No.2 shall not leave India without previous permission of the Court concerned.

(xi) The petitioner/Accused No.2 shall file an affidavit before the Court concerned disclosing the following particulars:-

- (1) Contact number
- (2) Mail address
- (3) Residential particulars.

In case, there is any change of the aforementioned details, the petitioner/Accused No.2 shall intimate the Court concerned by giving a fresh affidavit duly mentioning the change. She shall continue to do so till filing of the final report.

Any deviation of the above conditions would entitle Respondent No.1 to take appropriate steps for cancellation of the pre-arrest bail granted.

Dr. JUSTICE CHILLAKUR SUMALATHA

Date:20.12.2022
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HON'BLE Dr. JUSTICE CHILLAKUR SUMALATHA

CRIMINAL PETITION No.10356 of 2022

Date:20.12.2022

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CIVIL REVISION PETITION No.3578 of 2018

27.12.2021

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