

HON'BLE Dr. JUSTICE CHILLAKUR SUMALATHA

CRIMINAL PETITION No.1279 of 2023

ORDER:

Heard Sri V.S.R.M.V.Prasad Sanaka, learned counsel, who argued on behalf of Sri Harikishan Kudikala, learned counsel on record for the petitioners. Also, heard Sri Srinivas Kudemula, learned counsel appearing for respondent No.2-defacto complainant. Further, the submissions of the learned Additional Public Prosecutor, who is representing respondent No.1-State, are also heard.

2. This Criminal Petition is filed under Section 438 Cr.P.C. on behalf of the petitioners, who are arrayed as accused Nos.1 to 3 in Crime No.298 of 2022 of Ellanthakunta Police Station, Rajanna-Sircilla District, for grant of pre-arrest bail.

3. The facts of the case, as could be perceived through the contents of the complaint, are that on 17.12.2022, respondent No.2-defacto complainant was proceeding towards his agricultural land in the evening time. He found one dog howling. On that, he took a stone and tried to hit the said dog. However, the stone went and hit the light of the

tractor of petitioner No.1-accused No.1 and the said light broke due to the said hit. Later, respondent No.2-defacto complainant went to his fields. At about 4.30 pm., all the petitioners along with accused No.4 approached respondent No.2-defacto complainant, questioned him as to why he hit the light of their tractor and beat him with sticks, due to which respondent No.2-defacto complainant sustained injuries. The persons present in the nearby fields came and stopped the accused.

4. Learned counsel for the petitioners submits that respondent No.2-defacto complainant sustained only simple injuries and initially, the case was registered for the offence punishable under Section 324 IPC, but having regard to the pressure applied by respondent No.2-defacto complainant over police, the Section of law was altered to Section 307 IPC. Learned counsel thereby seeks for grant of anticipatory bail.

5. On the other hand, the submission of learned counsel appearing for respondent No.2-defacto complainant is that though the case was registered for the offence punishable under Section 307 IPC, police acted under the influence of the accused and failed to arrest them. Learned counsel for

respondent No.2-defacto complainant also contends that though the entire investigation is completed, the petitioners were not arrested till now and therefore, the present Criminal Petition is liable to be dismissed.

6. Learned Additional Public Prosecutor produced the photostat copy of the Wound Certificate which goes to show that respondent No.2-defacto complainant sustained simple injuries only. Also, learned Additional Public Prosecutor states that the material part of investigation is completed.

7. Having considered all these aspects and as this Court does not find any reasons for dishonouring the request of the petitioners, this Criminal Petition is allowed, however with the following conditions:-

- (i) The petitioners/accused Nos.1 to 3 are directed to surrender before the Court concerned within ten (10) days. On such surrender, they shall be enlarged on bail on each of them executing a personal bond for Rs.50,000/- (Rupees Fifty thousand only) with two sureties for the 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) In case, the petitioners/accused Nos.1 to 3 hold passport(s), they are directed to surrender the same.

(iii) The petitioners/accused Nos.1 to 3 should not involve in any unlawful activity.

(iv) The petitioners/accused Nos.1 to 3 should afford all assistance for proper investigation of the case.

(v) The petitioners/accused Nos.1 to 3 should not cause the evidence of the offence disappear.

(vi) The petitioners/accused Nos.1 to 3 should not tamper with the evidence in any manner.

(vii) The petitioners/accused Nos.1 to 3 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) The petitioners/accused Nos.1 to 3 should ensure their presence whenever required by the Court or Police.

(ix) The petitioners/accused Nos.1 to 3 shall not leave India without previous permission of the court concerned.

(x) The petitioners/accused Nos.1 to 3 shall report before the Station House Officer, Ellanthakunta Police Station, Rajanna-Sircilla District, on every Sunday and Thursday between 10.30 a.m. and 12.00 p.m. till filing of the final report.

(xi) The petitioners/accused Nos.1 to 3 shall file separate affidavits before the court concerned disclosing the following particulars:-

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

In case, there is any change in the aforementioned details, the petitioners shall intimate the court concerned by giving fresh separate affidavits duly mentioning the change. They shall continue to do so till filing of the final report.

Any deviation of the above conditions would entitle the respondent to take appropriate steps for cancellation of the bail granted

Dr. JUSTICE CHILLAKUR SUMALATHA

21.02.2023
DR