

HON'BLE SRI JUSTICE SUBBA REDDY SATTI

CRIMINAL PETITION NO. 5749 of 2022

ORDER:-

Accused No.1 in Crime No.136 of 2021 of Ramapuram Police Station, Ramapuram Mandal, Y.S.R.District filed the above criminal petition under Section 438 of Code of Criminal Procedure, 1973 (for short "Cr.P.C.,") seeking pre-arrest bail.

2. The case of the prosecution in brief, is that on 11.09.2021, the complainant along with his wife and son went to the fields. While they were working in the fields, at about 10.30 am., the elder paternal uncle of Galiveeti Chayamma namely Galiveeti Sivarami Reddy, his son, Galiveeti Nagendra Reddy and his wife along with 10 others went to the fields. Sivaramireddy abused the complainant. Nagendra hit the complainant and Sivaramireddy kicked the complainant's wife in stomach. All members attacked on complainant and his family members due to which they sustained injuries. Basing on the said report the present crime is registered for the offences punishable under Sections 323, 324 read with 34 of the Indian Penal Code, 1860 (for short 'IPC').

3. Heard Sri V.R.Reddy Kovvuri, learned counsel for the petitioner and learned Sri Soora Venkata Sainath, learned Special Assistant Public Prosecutor for the respondent-state.

4. Learned counsel for the petitioners would submit that Accused No.4 in the above said Crime lodged complaint with the police against the complainant in Crime No.135 of 2021 dated 11.09.2021. This is case and counter case. Going by the complaint

alleged took place on fields and both the parties are sustained injuries. Basing on the complaints both the cases were registered. He submits that even if it is assumed that petitioner committed the alleged offence, they are entitled for notice under Section 41-A of Cr.P.C. as the punishment for alleged offence is less than seven years and Police are trying to arrest the petitioner without issuing notice under Section 41-A of Cr.P.C. Hence, he prays to grant pre-arrest bail to the petitioner.

5. Learned Special Assistant Public Prosecutor submits that except the serving of 41-A Cr.P.C. notices to the accused A1 and A2, entire investigation is completed. The offences as noted supra are alleged against the petitioner under Section 323, 324 r/w. 34 IPC.. Hence, he prays to dismiss the bail petition.

6. In view of the submissions made on either side, in case Police have not issued notice to the petitioner under Section 41-A of Cr.P.C., notice be issued and there shall be a direction to the Police to adhere to the procedure contemplated under Section 41-A of Cr.P.C and the guidelines prescribed by the Honourable Apex Court in ***Arnesh Kumar v. State of Bihar and another***¹ against the petitioner in the above crime, if notice is not issued to the petitioner.

7. This Criminal Petition is disposed of with the above direction.

JUSTICE SUBBA REDDY SATTI

Date :05.08.2022
AG

¹ (2014) 8 SCC 273

HON'BLE SRI JUSTICE SUBBA REDDY SATTI

CRIMINAL PETITION No. 5749 OF 2022

05.08.2022

AG