

THE HONOURABLE SMT. JUSTICE JUVVADI SRIDEVI

CRIMINAL PETITION No.4448 OF 2022

ORDER:

This Criminal Petition is filed under Section 438 Cr.P.C, to enlarge the petitioners/A1 and A2 on bail in connection with crime No.677 of 2022 registered for the offences under Sections 354-B and 506 of IPC by Rajendranagar Police station, Cyberabad District, in the event of their arrest.

2. Heard the learned counsel for the petitioners and learned Assistant Public Prosecutor for the respondent-State and perused the record.

3. Learned counsel for petitioners submits that the petitioners/A1 and A2 are husband and wife and tenants of a shop in house bearing No.4-4-60, Bhagyanagar Colony, near Saibaba Temple, Attapur, Ranga Reddy District. He submits that the defacto-complainant is daughter in law of the owner of the said house. He submits that there are family disputes between defacto complainant and owner of the subject house and during the pendency of O.P.No.24 of 2019 filed by the defacto complainant, her husband died. He submits that the defacto complainant after the demise of her husband has been

harassing her parents-in-law for transfer of property in her name and they filed W.P.No.13586 of 2021 against the defacto complainant and others wherein this Court on 18-06-2021 directed the respondents police therein not to harass the petitioners therein including the parents-in-law of the defacto complainant under the guise of investigation. He submits that the petitioners are only tenants of the subject house and the defacto complainant created nuisance in the rented shop of the petitioners and manhandled them. He submits that the petitioners have not committed any offence and in view of the civil disputes prevailing between the family members of defacto complainant, a false complaint is given by her, basing on which crime No.677 of 2022 has been registered. Hence, he prayed for grant of anticipatory bail to the petitioners/A1 and A2 and the petitioners are ready to furnish the sureties as directed by this Court.

4. Learned Assistant Public Prosecutor submitted that he has received instructions from the Police, Rajendranagar PS stating that they have already issued notice under Section 41-A Cr.P.C to the petitioner/accused No.1 on 19.04.2022 and he has not given any reply and that the investigation is still

pending. He submits that they are following the due process of law. Hence, he prayed for dismissal of the application.

5. On perusal of the entire material on record, it appears that the accused No.2/petitioner No.2 was not served with a notice under Section 41-A Cr.P.C. The accused No.1/petitioner No.1 was only served with the notice.

6. Since the punishment prescribed for the offences alleged against the petitioners is up to seven years and also accused No.2 was not issued a notice under Section 41-A Cr.P.C, respondent - Police are directed to issue notice under Section 41-A Cr.P.C to accused No.2.

7. In view of the said discussion, this Criminal Petition is disposed of directing the Investigating Officer in Crime No.677 of 2022 pending on the file of Rajendranagar Police Station, Cyberabad District, to strictly follow the procedure laid down under Section 41-A Cr.P.C. and the guidelines issued by the Hon'ble Apex Court in **Arnesh Kumar v. State of Bihar**¹. Till completion of investigation and filing of final report, the Investigating Officer is further directed not to arrest the

¹ (2014) 8 SCC 273

petitioners herein. However, the petitioners shall cooperate with the Investigating Officer in concluding the investigation by furnishing information and submitting documents, as sought by him.

Miscellaneous applications, if any, pending shall stand closed.

JUVVADI SRIDEVI, J

Date: 19.05.2022
trr/gvl