

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL PETITION No. 3341 of 2014

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Dated: 28.03.2014

Between:

M.U.Shanker Rao

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.....Petitioner/accused

And

1. The State of A.P.,
Through SHO, P.S. Rajendranagar
Rep. by its Public Prosecutor,
High Court of A.P.,
Hyderabad.

2. Sri G.Hari Kiran Goud

....Respondents

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL PETITION No. 3341 of 2014

ORDER :

This Criminal Petition is filed by the petitioner/accused under Section 482 of the Code of Criminal Procedure, 1973, seeking quashing of investigation in Crime No.138 of 2014 of Rajendranagar Police Station, Cyberabad, registered for the offences punishable under Sections 406 and 420 IPC and Section 156(3) Cr.P.C.

2. Though the Criminal Petition has been filed this

criminal petition seeking quashing of investigation in Crime No.138 of 2014, learned Counsel for the petitioner, however, restricted his prayer seeking a direction to the police to comply with Section 41 Cr.P.C. before taking any coercive steps against the petitioner.

3. Heard the learned Additional Public Prosecutor appearing for the State.

4. Section 41 Cr.P.C. reads as under:

When police may arrest without warrant:-

- (1) Any police officer may without an order from a Magistrate and without a warrant, arrest any person –
 - (a) who commits, in the presence of a police officer, a cognizable offence;
 - (b) against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists that he has committed a cognizable offence punishable with imprisonment for a term which may be less than seven years or which may extend to seven years whether with or without fine, if the following conditions are satisfied, namely:-
 - (i) the police officer has reason to believe on the basis of such complaint, information, or suspicion that such person has committed the said offence;
 - (ii) the police officer is satisfied that such arrest is necessary-
 - a) to prevent such person from committing any further offence; or
 - b) for proper investigation of the offence; or
 - c) to prevent such person from causing the evidence of the offence to disappear or tampering with such evidence in any manner; or
 - d) to prevent such person from making any

inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to the police officer; or

e) as unless such person is arrested, his presence in the Court whenever required cannot be ensured,

and the police officer shall record while making such arrest, his reasons in writing;

(Provided that a police officer shall, in all cases where the arrest of a person is not required under the provisions of this sub-section, record the reasons in writing for not making the arrest.)

5. From the above it is clear that the police officer, before arresting any person, has to be satisfied that such an arrest is necessary in terms of clauses (a) to (e) of Section 41(1)(b)(ii) Cr.P.C. and he has to record reasons while making such arrest. For the aforesaid reasons, it is ordered that the Investigating Officer while exercising discretion, whether or not to arrest the petitioner herein, under Section 41 Cr.P.C. shall scrupulously follow the conditions stipulated therein.

6. With the above direction, the Criminal Petition is disposed of. As a sequel, Miscellaneous Petitions, if any, pending in this Criminal Petition, shall stand dismissed.

C. PRAVEEN KUMAR, J

28th March 2014.

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