

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.13557 of 2015

ORDER:

This petition is filed under Section 482 Cr.P.C. to quash the proceedings against the petitioner/A.6 in Crime No.138 of 2015 on the file of the Station House Officer, Totapalli Gudur Police Station, Sri Potti Sriramulu Nellore District, registered for the offences under Sections 447, 341, 506, 143 and 109 read with 149 I.P.C.

2. The contention of Sri M.R.K.Chowdary, the learned senior counsel appearing for the petitioner, is two fold: (1) The third respondent taking advantage of the presence of the petitioner in India filed a false case with an ulterior motive, (2) Even if the allegations made in the complaint are *ex facie* taken to be true and correct, the petitioner has not committed the offences alleged.

3. *Per contra*, the learned Public Prosecutor submitted that this is not the stage to go into the merits of the main case.

4. A perusal of the record reveals that the petitioner is accused No.6 and the third respondent is the *de facto* complainant in Crime No.138 of 2015.

5. As per the allegations made in the complaint, on 22.11.2015, the petitioner instigated the other accused, who in turn prevented the tractor driver from ploughing the land of the third respondent. It is further alleged that the petitioner along with others threatened the third respondent with dire consequences.

6. It is an admitted fact that the petitioner and the third respondent are own brothers. Whether the petitioner has come to India for a short visit or not will come to light during the course of investigation. Whether the petitioner has committed the alleged offences or not also

will come to light during the course of investigation. If this Court expresses any opinion touching the merits of the main case, the same may cause prejudice to one of the parties to the proceedings.

7. While exercising the inherent power under Section 482 Cr.P.C., the Court has to take into consideration the allegations made in the complaint only. The Court is not justified in embarking upon an enquiry as to probability, reliability or genuineness of the allegations made in the complaint at the initial stage of investigation. The material placed before the Court is *prima facie* sufficient to investigate into the matter in order to ascertain the truthfulness or otherwise of the allegations made in the complaint.

8. Having regard to the facts and circumstances of the case and also the principles enunciated by the Supreme Court in **R.P.Kapoor v. State of Punjab**^[1] and **State of Haryana v. Bhajanlal**^[2], I am of the considered view that it is not a fit case to quash the proceedings at the initial stage of the investigation.

9. The learned counsel for the petitioner submitted that the concerned Station House Officer may be directed not to arrest the petitioner till completion of the investigation.

10. Taking into consideration the facts and circumstances of the case, this Court is inclined to direct the Station House Officer, Totapalli Gudur Police Station, Sri Potti Sriramulu Nellore District, not to arrest the petitioner/A.6 in Crime No.138 of 2015 till completion of the investigation.

11. With the above direction, the Criminal Petition is dismissed.

12. Consequently, Miscellaneous Petitions, if any, pending in this Criminal Petition shall stand closed.

T.SUNIL CHOWDARY, J

Date: 18.12.2015

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[\[1\]](#) AIR 1960 SC 866

[\[2\]](#) AIR 1992 SC 604