

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.10258 of 2015

ORDER:

This petition is filed under Section 482 Cr.P.C. to quash the proceedings against the petitioners/A.2 and A.3 in Crime No.112 of 2015 of Nakkapalli Police Station, Visakhapatnam District registered for the offences under Sections 120B, 341, 352, 379, 426, 447 and 506 read with 34 I.P.C.

2. Heard the learned counsel for the petitioners and the learned Public Prosecutor.

3. A perusal of the record reveals that the petitioners are accused Nos.2 and 3 and the second respondent is the *de facto* complainant in Crime No.112 of 2015.

4. As per the allegations made in the complaint, the petitioners herein along with others have entered into the land of the second respondent and committed theft of coconuts and sand. It is further alleged that the petitioners have violated the orders passed in I.A.No.815 of 2015 in O.S.No.392 of 2015 on the file of the II Additional District Court, Visakhapatnam.

5. 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. If the allegations made in the complaint are absurd and inherently improbable, then this Court can quash the criminal proceedings. 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.

6. 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.

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

8. While passing the order in Criminal Petition No.9497 of 2015, this Court directed the Station House Officer, Nakkapalli Police Station, Visakhapatnam District, not to arrest the petitioner/A.4 therein.

9. Hence, I am inclined to direct the Station House Officer, Nakkapalli Police Station, Visakhapatnam District not to arrest the petitioners/A.2 and A.3 in Crime No.112 of 2015 till completion of the investigation.

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

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

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T.SUNIL CHOWDARY, J

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Date: 02.11.2015

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^[1] AIR 1960 SC 866

^[2] AIR 1992 SC 604