

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.8634 of 2015

ORDER:

This petition is filed under Section 482 Cr.P.C. to quash the proceedings against the petitioner/A.1 in Crime No.365 of 2015 of Miyapur Police Station, Cyberabad registered for the offences under Sections 406, 420, 506 and 120B I.P.C.

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

3. A perusal of the record reveals that the petitioner is accused No.1 and the second respondent is the *de facto* complainant in Crime No.365 of 2015.

4. As per the allegations made in the complaint, the petitioner, second respondent and one Smt. Adapa Samatha have entered into a partnership agreement dated 31.07.2014. It is further alleged that the petitioner has misappropriated the partnership business funds.

5. While deciding the petition 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. 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.

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** and **State of Haryana v. Bhajanlal**, I am of the considered view that it is not a fit case to quash the proceedings at the threshold of the investigation.

7. 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.

8. In view of the principle enunciated by the Supreme Court in **Arnesh Kumar v.**

State of Bihar, the Station House Officer, Miyapur Police Station, Cyberabad is hereby directed to follow the procedure as contemplated under Section 41A Cr.P.C in Crime No.365 of 2015 so far as the petitioner/A.1 is concerned.

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

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

T.SUNIL CHOWDARY, J

Date: 07.10.2015

lvd