

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.13153 of 2015

ORDER:

_____ This petition is filed under Section 482 Cr.P.C. to quash the proceedings against the petitioner/A.9 in Crime No.352 of 2015 of Balanagar Police Station, Cyberabad, registered for the offences under Sections 406 and 420 I.P.C., and Section 7 of the Essential Commodities Act, 1955.

2. _____ Heard the learned counsel for the petitioner and the learned Public Prosecutor representing the State.

3. _____ As per the allegations made in the complaint, on 01.11.2015, 1050 litres of Kerosene, which is meant for distribution to the poor people, was seized from accused No.1. It is further alleged that accused No.1 used to supply PDS Kerosene to various dealers including Rasaayan Industries, Dulapalli, Qutbullapur, Hyderabad.

4. _____ The contention of the learned counsel for the petitioner is that Kerosene is not being used as a raw material by Rasaayan Industries. In such circumstances, supply of PDS Kerosene to it does not arise. Whether the petitioner has committed the alleged offences or not will come to light during the course of investigation.

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. 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 petitioner submitted that the concerned Station House Officer may be directed not to arrest the petitioner till completion of the investigation.

8. Taking into consideration the facts and circumstances of the case and also the principle enunciated by the Supreme Court in **Arnesh Kumar v. State of Bihar**^[3], the Station House Officer, Balanagar Police Station, Cyberabad, is hereby directed to follow the procedure as contemplated under Section 41A Cr.P.C in Crime No.352 of 2015 so far as the petitioner/A.9 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: 11.12.2015

lvd

^[1] AIR 1960 SC 866

^[2] AIR 1992 SC 604

^[3] 2014 (8) SCALE 250