

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.10797 of 2015

ORDER:

This petition is filed under Section 482 of Cr.P.C., to quash the proceedings against the petitioner/sole accused in Crime No.424 of 2015 of Sanathnagar Police Station, registered for the offences under Sections 406, 420 and 506 IPC.

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

3. A perusal of the record reveals that the petitioner is sole accused and the second respondent is the *de facto* complainant in Crime No.424 of 2015. As per the allegations made in the complaint, the petitioner borrowed an amount of Rs.22,00,000/-from the second respondent on different dates and executed a promissory note agreeing to repay the same. It is further alleged that the petitioner has been postponing the payment of money on one pretext or the other. The gist of the allegations made in the complaint is that the petitioner cheated the second respondent by not repaying the amount. It is also alleged that the petitioner threatened the second respondent with dire consequences.

4. It is needless to say that the court has to take into consideration the allegations made in the complaint while exercising inherent jurisdiction under Section 482 Cr.P.C., in order to quash the criminal proceedings at the initial stage of investigation. The court is not justified in embarking upon an enquiry to ascertain the truthfulness, genuineness or otherwise of the allegations made in the complaint. It is a settled principle of law that the inherent power should not be exercised to stifle a legitimate investigation. If the allegations made in the complaint do not constitute the offence much less the offence alleged to have been committed by the petitioner, then this court can quash the proceedings in order to prevent abuse of process of court thereby to secure the ends of justice.

5 .I have carefully perused the allegations made in the complaint in order to ascertain whether the allegations made in the complaint are patently absurd and inherently improbable thereby to quash the proceedings. The material available on record 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 principle enunciated in **R.P.Kapoor v State of Punjab**, **State of Haryana v Bhajan Lal**, **V.Y.Jose v State of Gurajat** and **Teeja Devi v State of Rajasthan**, I am of the considered view that this is not a fit case to quash the criminal proceedings at the threshold.

7. The learned counsel for the petitioner submitted that the concerned Station House Officer may be directed not to arrest the petitioner during the pendency of the investigation. Taking into consideration the nature of the allegations made in the complaint and also the principle enunciated in **Arnesh Kumar v State of Bihar**, the Station House Officer, Sanathnagar Police Station, is hereby directed to follow the procedure as contemplated under Section 41A Cr.P.C., in Crime No.284 of 2015 so far as the petitioner/sole accused is concerned.

8. With the above direction, the criminal petition is dismissed. Miscellaneous petitions, if any pending in the criminal petition, shall stand closed.

T.SUNIL CHOWDARY, J

November 04, 2015.

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