

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.8833 OF 2015

ORDER:

1 This petition is filed under Section 482 Cr.P.C to quash the proceedings against the petitioners/accused Nos.1, 2, 3 and 5 to 9 in Cr.No.202 of 2015 on the file of the Kothagudem I Town Police Station, registered for the offences punishable under Sections 406, 409, 120-B, 420 and 477-A of IPC.

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

3 A perusal of the record reveals that the petitioners are accused Nos.1, 2, 3 and 5 to 9 and the 2nd respondent is the de-facto complainant in the above said crime. As per the allegations made in the complaint, the petitioners herein have misappropriated an amount of Rs.46.00 lakhs which belongs to the Trade Union.

4 The contention of the learned counsel for the petitioners is that the petitioners are having receipts for the amounts withdrawn from the bank. Whether the petitioners have misappropriated the amount or spent the money for the welfare of the Trade Union will come to light during the course of investigation only. 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.

5 While disposing of the petition filed under Section 482 Cr.P.C, the Court has to take into consideration the allegations made in the complaint. The Court is not justified in embarking upon an enquiry to ascertain the truthfulness or otherwise of the allegations made in the complaint. The very purpose of investigation is to ascertain the truthfulness or otherwise of the allegations made in the complaint. The allegations made in the complaint are prima facie sufficient to investigate into the matter.

6 Having regard to the facts and circumstances of the case on hand and also the principle laid down 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 proceedings at this stage.

7 The learned counsel for the petitioners submitted that the Station House Officer, Kothagudem I Town Police Station may be directed not to arrest the petitioners pending investigation in the crime.

8 Taking into consideration the nature of allegations made in the complaint and in view of the principle laid down by the Hon'ble apex Court in **Arnesh Kumar v State of Bihar**, the Station House Officer, Kothagudem I Town Police Station, is hereby directed to follow the procedure as contemplated under Section 41 A of Cr.P.C., in Cr.No.202 of 2015 so far as the petitioners/A.1, 2, 3 and 5 to 9 are concerned.

8 Accordingly, this criminal petition is dismissed. As a sequel, miscellaneous petitions, pending if any in this Criminal Petition, shall stand closed.

T. SUNIL CHOWDARY, J

Date: 16th November, 2015

Kvsn