

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION NO.11245 OF 2015

ORDER:

This petition is filed under Section 482 of the Code of Criminal Procedure (Cr.P.C.) to quash the proceedings in Crime No.331 of 2015 of II Town Police Station, Vijayawada, registered for the offences punishable under Sections 323, 327, 406, 420, 448, 506 read with Section 34 of the Indian Penal Code.

Heard the learned counsel appearing for the petitioners/accused Nos.1 and 2 and the learned Public Prosecutor representing the State.

A perusal of the record shows that the petitioners are accused Nos.1 and 2 and respondent Nos.2 to 5 are the *de facto* complainants in Crime No.331 of 2015. As per the allegations made in the complaint, on 02.07.2015 at about 11 pm, the petitioners herein unauthorisedly entered into the house of respondent Nos.2 to 5 and forced them to vacate the house. It is further alleged that the petitioners herein have created documents with an ulterior motive to cause financial loss to respondent Nos.2 to 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.

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 initial stage of the investigation.

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.

In view of the principle enunciated by the Supreme Court in **Arnesh Kumar v. State of Bihar and another**, the Station House Officer, II Town Police Station, Vijayawada, is hereby directed to follow the procedure as contemplated under Section 41A Cr.P.C in Crime No.331 of 2015 so far as the petitioners are concerned.

With the above direction, the Criminal Petition is dismissed. Miscellaneous petitions, if any, pending shall stand dismissed.

(T.SUNIL CHOWDARY, J)

7th November 2015

RRB