

THE HON'BLE MRS JUSTICE ANIS
CRIMINAL PETITION No.2701 of 2015

ORDER:-

This Criminal Petition is filed under Section 482 of Cr.P.C., to quash the proceedings against the petitioner/ Accused in Crime No.38 of 2015 of Gudivada Taluk Police Station, Krishna district for the offences punishable under

Sections 409, 467, 420 and 477-A of I.P.C.

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

3. Learned counsel for the petitioner submitted that the second respondent foisted a false case against the petitioner herein. He further argued that the complaint itself is not maintainable, as the provisions of I.P.C. are not attracted to the alleged offence. He also argued the provisions related to the alleged offences are Essential Commodities Act and A.P. State Public Distribution Control Order, 2011. He further submitted that the petitioner herein is innocent and prayed the Court to quash the proceedings in Crime No.38 of 2015 of Gudivada Taluk Police Station.

4. Learned Public Prosecutor submitted that the allegations made in the complaint *prima facie* constitute the offences alleged. He further submitted that the investigation is not yet completed and prayed the Court to dismissed the petition.

5. The petitioner herein is the sole accused and the second respondent herein is the de-facto complainant in Crime No.38 of 2015. A perusal of the record reveals that the petitioner herein is running the Fair Price Shop. The parents of the second respondent herein died in the year 2009 and 2011. It is also alleged

that after the death of the parents of the second respondent, the petitioner herein was drawing the ration of the parents of the second respondent by forging their signatures.

6. Whether the petitioner herein played fraud or not, involves complexity of disputed questions of fact, which cannot be gone into while exercising the inherent jurisdiction under Section 482 of Cr.P.C. While deciding this type of petitions the Court has to take into consideration the allegations made in the complaint only. The Court is not be justified in embarking upon an enquiry as to probability, reliability or genuineness of the allegations made in the complaint. It is settled principle of law that the Court shall not stifle the legitimate investigation more particularly at the initial stage of investigation. The material available on record is *prima facie* sufficient to investigate into the matter in order to ascertain truthfulness or otherwise of the allegations made in the complaint.

7. Having regard to the facts and circumstances of the case and also the principles enunciated by the Hon'ble Supreme Court in **R.P. Kapoor v State of Punjab** and **State of Haryana v. Bhajanlal**, I am of the view that it is not a fit case to quash the proceedings at the threshold.

8. Learned counsel for the petitioner submitted that the Station House Officer, Gudivada Taluk Police Station may be directed not to arrest the petitioner/Accused till completion of investigation.

9. In view of the facts and circumstances of the case, the Station House Officer, Gudivada Taluk Police Station is hereby directed not to arrest the petitioner/Accused in Crime No.38 of 2015 till completion of investigation or filing of report.

10. With the above directions, the Criminal Petition is disposed of.

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

JUSTICE ANIS

April 06, 2015

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THE HON'BLE MRS JUSTICE ANIS

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