

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

CRIMINAL PETITION Nos.2531 of 2014 and 2110 of 2015

COMMON ORDER:

Since the issue involved in both the petitions is one and the same and since the de-facto complainant in both the petitions is also one and the same, these two criminal petitions are disposed of by this common order.

2. Criminal petition No.2531 of 2014 is filed under Section 482 CrI.P.C., to quash the proceedings against the petitioners/A1 and A2 in Crime No.101 of 2014 of Karimnagar Rural Police Station for the offences under Sections 406 and 420 read with 34 IPC.

3. Pending investigation of Crime No.101 of 2014, the *de facto* complainant filed private complaint against the first petitioner/A1 in Crime No.101 of 2014 on the file of the Judicial First Class Magistrate, Karimnagar and the same was referred to the Station House Officer, Karimnagar Rural Police Station, who in turn registered a case in Crime No.103 of 2015 for the offences under Sections 420, 406 and 379 IPC. The sole accused in Crime No.103 of 2015 filed CrI.P.No.2110 of 2015 to quash the proceedings in Crime No.103 of 2015 against him.

4. Heard Sri A.Prabhakar Rao, learned counsel for petitioner in CrI.P.No.2531 of 2014, Sri T.V.Ramana Rao, learned counsel for petitioners in CrI.P.No.2110 of 2015, Sri H.Prahlada Reddy, learned counsel for the second respondent and the learned Public Prosecutor representing the State.

5. As per the allegations made in the complaint, the petitioners committed theft of the cheque bearing No.780178 and withdrew an amount of Rs.23,00,000/- from Andhra Bank Account No.030613046011949 of the second respondent.

6. The predominant contention of the learned counsel for the petitioners is that the complainant is not entitled to file two complaints for the same offence. A perusal of the record reveals that Crime No.101 of 2014 was registered under Sections 420 and 406 IPC whereas Crime No.103 of 2015 was registered under Sections 420, 406 and 379 IPC. As rightly pointed out, by the learned counsel for the petitioner in CrI.P.No.2110 of 2015, there is a bar under law to register second F.I.R. in respect of the same transaction basing on the same set of facts. Whether the petitioners have committed the theft of the cheque and committed criminal breach of trust by withdrawing an amount of Rs.23,00,000/- from the bank account of the second respondent or not will come to light during the course of investigation.

7. It is needless to say that the court has to take into consideration the allegations made in the complaint while exercising inherent power 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 offences much less the offences alleged to have been committed by the petitioners, 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 for the offences under Sections 379, 406 and 420 read with 34 IPC.

6. Having regard to the facts and circumstances of the case and also the principle enunciated in **R.P.Kapoor v State of Punjab**^[1], **State of Haryana v Bhajan Lal**^[2], **V.Y.Jose v State of Gurajat**^[3] and **Teeja Devi v State of Rajasthan**^[4], 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 petitioners submitted that the concerned Station House Officer may be directed not to arrest the petitioners during the pendency of investigation. In view of the orders of this court dated 10.4.2015, the Station House Officer, Karimnagar Rural Police Station, is hereby directed not to arrest the petitioners/A1 and A2 till completion of the investigation in Crime Nos.101 of 2014 and 103 of 2015. The Station House Officer is further directed to investigate both the crimes simultaneously and file one charge sheet.

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

T.SUNIL CHOWDARY, J

November 19, 2015.

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^[1] AIR 1960 SC 866

^[2] AIR 1992 SC 604

^[3] (2009) 3 SCC 78

^[4] 2015 (1) ACR 564 (SC)