

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.13165 of 2015

ORDER:

This petition is filed under Section 482 Cr.P.C. to quash the proceedings against the petitioner/A.2 in Crime No.559 of 2015 of Penamaluru Police Station, Vijayawada City registered for the offences under Sections 420, 427, 447 and 506 read with 34 I.P.C.

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 accused No.2 and the second respondent is the *de facto* complainant in Crime No.559 of 2015.

4. As per the allegations made in the complaint, the second respondent purchased an extent of 200 square yards plot No.132B in R.Sy.Nos.198/4 and 198/5 of Ganguru Village, Penamaluru Mandal from one Mohammed Farooq under a registered sale deed dated 23.06.2004. It is further alleged that the second respondent has been in possession and enjoyment of the property by erecting pillars. It is further alleged that the petitioner along with accused No.1 trespassed into the property and demolished the pillars. As per the version of the petitioner, accused No.1 purchased the property from him under registered sale deed. It is also alleged that the petitioner threatened the second respondent with dire consequences.

5. The fact remains that the second respondent purchased the property in dispute under registered sale deed. Whether the property purchased by accused No.1 and the second respondent is one and the same or not will come to light during the course of investigation.

6. While exercising the inherent power 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.

7. 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**^[1] and **State of Haryana v. Bhajanlal**^[2], I am of the considered view that it is not a fit case to quash the proceedings at the initial stage of the investigation.

8. The learned counsel for the petitioner submitted that the concerned Station House Officer may be directed not to arrest the petitioner till completion of the investigation.

9. Having regard to the nature of the allegations made against the petitioner and also the principle enunciated by the Supreme Court in **Arnesh Kumar v. State of Bihar**^[3], the Station House Officer, Penamaluru Police Station, Vijayawada City is hereby directed to follow the procedure as contemplated under Section 41A Cr.P.C in Crime No.559 of 2015 so far as the petitioner/A.2 is concerned.

10. With the above direction, the Criminal Petition is dismissed.

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

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T.SUNIL CHOWDARY, J

Date: 11.12.2015

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[\[1\]](#) AIR 1960 SC 866

[\[2\]](#) AIR 1992 SC 604

[\[3\]](#) 2014 (8) SCALE 250