

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.12184 of 2015

ORDER:

This petition is filed under Section 482 Cr.P.C. to quash the proceedings against the petitioner/A.1 in Crime No.71 of 2015 of Ghantasala Police Station, Krishna District registered for the offences under Sections 403 and 420 I.P.C., and Section 7 (1) of the Essential Commodities Act, 1955.

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.1 and respondent No.3 is the *de facto* complainant in Crime No.71 of 2015.

4. As per the allegations made in the complaint, the concerned Civil Supplies Officials visited the MLS point, Movva and found shortage of 34 bags of Rice, 4 bags of Sugar, 10 bags of Wheat and 5 bags of Wheat Atta. It is further alleged that the petitioner, who is in charge of MLS point, Movva, is responsible for shortage of stocks.

5. Whether there is any negligence on the part of the petitioner or not will come to light during the course of investigation only. 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.

6. 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.

7. 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.

8. In view of the principle enunciated by the Supreme Court in **Arnesh Kumar v. State of Bihar**, the Station House Officer, Ghantasala Police Station, Krishna District, is hereby directed to follow the procedure as contemplated under Section 41A Cr.P.C. in Crime No.71 of 2015 so far as the petitioner/A.1 is concerned.

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

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

T.SUNIL CHOWDARY, J

Date: 23.11.2015

lvd