

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.11190 of 2015

ORDER:

_____ This petition is filed under Section 482 Cr.P.C. to quash the proceedings against the petitioner/accused in Crime No.174 of 2015 of Neredmet Police Station, Cyberabad registered for the offence under Section 420 I.P.C.

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

3. _____ A perusal of the record reveals that the petitioner is the sole accused and the second respondent is the *de facto* complainant in Crime No.174 of 2015.

4. _____ As per the allegations made in the complaint, the petitioner herein borrowed an amount of Rs.10,00,000/- from the second respondent agreeing to repay the same with interest. It is further alleged that the petitioner is postponing the payment of money to the second respondent on one pretext or other. The gist of the allegations made in the complaint is that the petitioner herein cheated the second respondent.

5. _____ The contention of the learned counsel for the petitioner is that the *lis* involved between the parties is purely civil in nature. Therefore, initiation of the criminal proceedings against the petitioner is not maintainable under law.

6. _____ Whether any element of criminality involved or not will come to light during the course of investigation. If this Court expresses any opinion with regard to the nature of the transaction between the parties, the same may cause prejudice to one of the parties to the proceedings. 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. In view of the principle enunciated by the Supreme Court in **Arnesh Kumar v. State of Bihar**^[3], the Station House Officer, Neredmet Police Station, Cyberabad is hereby directed to follow the procedure as contemplated under Section 41A Cr.P.C in Crime No.174 of 2015 so far as the petitioner/accused 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: 06.11.2015

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^[1] AIR 1960 SC 866

^[2] AIR 1992 SC 604

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