

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.11411 OF 2015

ORDER:

1 This petition is filed under Section 482 Cr.P.C to quash the proceedings against the petitioners/Accused Nos.1 to 5 in Cr.No.55 of 2014 on the file of Gajula Mandyam Police Station, registered for the offences punishable under Sections 447, 427, 420 and 471 IPC.

2 Heard the learned counsel for the petitioners and the learned Additional Public Prosecutor representing the State.

3 The petitioners are accused Nos.1 to 5 and the second respondent is the de-facto complainant in Cr.No.55 of 2014 on the file of Gajula Mandyam Police Station. As per the allegations made in the complaint, on 08.04.2014 at about 11.00 am, the petitioners trespassed into the land of the second respondent and demolished white cut stones worth of Rs.10,000/- It is further alleged that the petitioners have created certain documents with an ulterior motive to deprive the property rights of the second respondent.

4 The contention of the learned counsel for the petitioners is that the allegations made in the complaint do not constitute any offence, much less the offences alleged to have been committed by the petitioners. While disposing of the petition filed under Section 482 Cr.P.C, the Court has to take into consideration the allegations made in the complaint. The Court is not justified in embarking upon an enquiry to ascertain the truthfulness or otherwise of the allegations made in the complaint. The very purpose of investigation is to ascertain the truthfulness or otherwise of the allegations made in the complaint. The allegations made in the complaint are prima facie sufficient to investigate into the matter.

5 Having regard to the facts and circumstances of the case on hand and also the principle laid down in **R.P.Kapoor v. State of Punjab, State of Haryana v. Bhajan Lal, V.Y.Jose v State of Gurajat** and **Teeja Devi v State of Rajasthan**, I am of the considered view that this is not a fit case to quash the proceedings at this stage.

6 The learned counsel for the petitioners submitted that the Station House Officer, Gajula Mandyam Police Station may be directed not to arrest the petitioners pending investigation in the crime.

7 Taking into consideration the nature of allegations made in the complaint and in view of the principle laid down by the Hon'ble apex Court in **Arnesh Kumar v State of Bihar**, the Station House Officer, Gajula Mandyam Police Station, is hereby directed to follow the procedure as contemplated under Section 41 A of Cr.P.C., in Cr.No.55 of 2014, so far as the petitioners, who are accused Nos.1 to 5 are concerned.

8 Accordingly, this criminal petition is dismissed. As a sequel, miscellaneous petitions, pending if any in this Criminal Petition, shall stand closed.

T. SUNIL CHOWDARY, J

Date: 9th November, 2015

Kvsn