

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.12884 of 2015

ORDER:

This petition is filed under Section 482 Cr.P.C. to quash the proceedings against the petitioners/A.2 to A.6 in Crime No.312 of 2015 of Kothagudem I Town Police Station, Khammam District registered for the offences under Section 420 read with 120B I.P.C and Section 5 of the A.P. Protection of Depositors of Financial Establishments Act, 1999.

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

3. A perusal of the record reveals that the petitioners are accused Nos.2 to 6 and the second respondent is the *de facto* complainant in Crime No.312 of 2015.

4. As per the allegations made in the complaint, accused No.1 collected huge amount from different persons and failed to repay the amount. It is further alleged that the petitioners have agreed to repay the amount borrowed by accused No.1. It is also alleged that accused No.1 executed a settlement deed in favour of accused No.3 with an ulterior motive to deceive the creditors. The gist of the allegations made in the complaint is that the petitioners along with accused No.1 have cheated the second respondent and others.

5. Whether the petitioners have committed the alleged offences or not will come to light during the course of investigation. 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 petitioners submitted that the concerned Station House Officer may be directed not to arrest the petitioners till completion of the investigation.

8. Taking into consideration the facts and circumstances of the case and also in view of the principle enunciated by the Supreme Court in **Arnesh Kumar v. State of Bihar**, the Station House Officer, Kothagudem I Town Police Station, Khammam District is hereby directed to follow the procedure as contemplated under Section 41A Cr.P.C in Crime No.312 of 2015 so far as the petitioners/accused Nos.2 to 6 are 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: 04.12.2015

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