

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.12886 of 2015

ORDER:

This petition is filed under Section 482 Cr.P.C. to quash the proceedings against the petitioner/accused in Crime No.91 of 2015 of Mahankali Police Station, Secunderabad registered for the offences under Sections 408 and 420 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 the sole accused and the second respondent, who is the Vice President of Automotive Manufacturers Private Limited, is the *de facto* complainant in Crime No.91 of 2015.

4. It is an admitted fact that the petitioner worked in Automotive Manufacturers Private Limited for some time. Due to misunderstandings, the petitioner left the company.

5. As per the allegations made in the complaint, the petitioner issued a cheque bearing No.254612, dated 31.07.2014 drawn on I.C.I.C.I. Bank, Panjagutta Branch for an amount of Rs.20,27,227/- towards full and final settlement in favour of the second respondent. The second respondent presented the said cheque for collection and the same was returned with an endorsement of 'payment stopped by drawer'. The gist of the allegations made in the complaint is that the petitioner issued the above referred cheque with an intention to deceive the second respondent.

6. Whether the petitioner has committed the alleged offences 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.

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, Mahankali Police Station, Secunderabad is hereby directed to follow the procedure as contemplated under Section 41A Cr.P.C in Crime No.91 of 2015 so far as the petitioner/accused is concerned. The concerned investigating officer is hereby directed to consider the documents, if any, submitted by the petitioner.

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: 10.12.2015

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

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

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