

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.11515 of 2015

ORDER:

This petition is filed under Section 482 Cr.P.C. to quash the proceedings against the petitioner/accused in Crime No.251 of 2015 of Chatrinaka Police Station, Hyderabad registered for the offence under Section 52-A of the Wakf (Amendment) Act, 2013.

2. The contention of the learned counsel for the petitioner is that even if the allegation made in the complaint *ex facie* taken to be true and correct, no offence is made out under Section 52-A of the Wakf (Amendment) Act.

3. Learned Standing Counsel for the first respondent - Wakf Board and the learned Public Prosecutor representing the State submitted that this is not the stage to go into the merits of the main case.

4. A perusal of the record reveals that the petitioner is the sole accused and the first respondent is the *de facto* complainant in Crime No.251 of 2015.

5. As per the allegations made in the complaint, the petitioner herein is trying to sell the wakf property. It is further alleged that the petitioner has painted on the wall of the wakf institution as "Plot for Sale" with an ulterior motive to sell the property belongs to the Wakf Board.

6. Whether the petitioner made an attempt to sell the property of the wakf institution 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.

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** 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.

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**, the Station House Officer, Chatrinaka Police Station, Hyderabad, is hereby directed to follow the procedure as contemplated under Section 41A Cr.P.C. in Crime No.251 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.

T.SUNIL CHOWDARY, J

Date: 30.11.2015

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