

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.10204 of 2015

ORDER:

_____ This petition is filed under Section 482 Cr.P.C. to quash the proceedings against the petitioner/accused in Crime No.141 of 2014 of Sarubujjili Police Station, Srikakulam District registered for the offences under Sections 468, 471 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 is the *de facto* complainant in Crime No.141 of 2014.

4. _____ As per the allegations made in the complaint, the petitioner induced the second respondent to enter into an agreement to purchase an extent of Ac.0.88 cents of land in Survey No.14-2 of Peddakota Village and the second respondent paid an amount of Rs.10,00,000/- to the petitioner towards advance. It is further alleged that the petitioner herein is not the owner of the land in question. It is also alleged that the petitioner is postponing the execution of the sale deed. The gist of the allegations made in the complaint is that the petitioner cheated the second respondent.

5. _____ 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**^[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.

7. 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.

8. In view of the principle enunciated by the Supreme Court in **Arnesh Kumar v. State of Bihar**^[3], the Station House Officer, Sarubujjili Police Station, Srikakulam District, is hereby directed to follow the procedure as contemplated under Section 41A Cr.P.C. in Crime No.141 of 2014 so far as the petitioner/accused is 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.

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T.SUNIL CHOWDARY, J

Date: 17.11.2015

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^[1] AIR 1960 SC 866

^[2] AIR 1992 SC 604

^[3] 2014 (8) SCALE 250