

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.3462 of 2015

ORDER:

_____ This petition is filed under Section 482 Cr.P.C. to quash the proceedings against the petitioners/Accused Nos.2 to 6 in Crime No.2 of 2015 of Pedabayalu Police Station, Visakhapatnam District, registered for the offence under Sections 376, 417 and 109 IPC read with Section 34 IPC.

Heard the learned counsel for the petitioners and the learned Public Prosecutor.

A perusal of the record reveals that the petitioners are accused Nos.2 to 6 and the second respondent is the *de facto* complainant.

As per the allegations made in the complaint, accused No.1 by name Rambabu enjoyed the second respondent sexually by making a false promise that he will marry her. It is further alleged that the said Rambabu's marriage was performed with Savithri on 22.01.2015. Even if the allegations made in the complaint are taken to be true and correct, *prima facie* no case is made out against the petitioners for the offence punishable under Section 376 IPC. As per the allegations made in the complaint, the petitioners herein made a false promise to the second respondent that they will perform her marriage with accused No.1.

While deciding the petition 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 to ascertain the truthfulness or otherwise of the allegations made in the complaint at the initial stage of the 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.

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 view that it is not a fit case to quash the proceedings at the initial stage of the investigation.

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.

In view of the principle enunciated by the Supreme Court in **Arnesh Kumar v. State of Bihar and another**^[3], the Station House Officer, Pedabayalu Police Station, Visakhapatnam District, is hereby directed to follow the procedure as contemplated under Section 41-A Cr.P.C. in Crime No.2 of 2015, so far as the petitioners/Accused Nos.2 to 6 are concerned.

With the above direction, the Criminal Petition is dismissed.

Consequently, Miscellaneous Petitions, if any, pending in this Criminal Petition shall stand closed.

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T.SUNIL CHOWDARY, J
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27.04.2015

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

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

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