

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.9542 of 2016

ORDER:

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This petition is filed under Section 482 Cr.P.C. to quash the proceedings against the petitioners/accused Nos.1 to 5 in Crime No.26 of 2016 of Kurnool IV Town Police Station, Kurnool District, registered under Sections 468, 471, 447 and 506 read with 34 IPC.

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

A perusal of the record reveals that the petitioners are accused Nos.1 to 5 and the second respondent is the *de facto* complainant.

As per the allegations made in the complaint, the petitioners herein created a patta in respect of Survey Nos.301/B and 301/B1 with an ulterior motive to knock away the property of the second respondent. A perusal of the record reveals that petitioners 1 to 4 filed O.S.No.7 of 2016 on the file of the Principal Junior Civil Judge, Kurnool against the brother of the respondent for perpetual injunction. The trial Court granted interim injunction in favour of the petitioners in I.A.No.23 of 2016 in O.S.No.7 of 2016 on 06.01.2016. A perusal of the record reveals that the second respondent lodged a complaint to the Station House Officer on 19.01.2016 after filing of the suit. Whether the lis involved between the parties is purely civil in nature or not will be decided during the course of investigation. If this Court expresses any opinion touching the merits of the main case, the same may cause prejudice to one of the parties to the proceedings.

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 petitioners submitted that the concerned Station House Officer may be directed not to arrest the petitioners till completion of the investigation.

Taking into consideration the nature of allegations made against the petitioners, the Station House Officer, Kurnool IV Town Police Station, Kurnool District, is hereby directed not to arrest the petitioners, who are accused Nos.1 to 5 in Crime No.26 of 2016 till completion of investigation.

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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Date:01.07.2016

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

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