

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.8923 of 2010

ORDER:

This Criminal Petition is filed under Section 482 Cr.P.C. seeking to quash proceedings against the petitioner/accused in Crime No.770 of 2010 on the file of Banjara Hills Police Station, Hyderabad, registered for the offences punishable under Sections 406 and 420 IPC.

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Heard the learned counsel for the petitioner, the learned counsel for the second respondent and the learned Public Prosecutor representing the State.

A perusal of the record reveals that the petitioner herein is the accused and the second respondent is complainant-bank. The second respondent sanctioned personal loan of Rs.2,46,000/- to the petitioner herein on 10-07-2007. It is alleged that the petitioner herein paid some instalments and postponing the payment of remaining instalments with an ulterior motive. It is further alleged that the petitioner herein shifted his residence with an intention to cheat the bank. The contention of the learned counsel for the petitioner is that the *lis*, if any, between the parties is purely civil in nature without an element of criminality. Whether the petitioner had committed the alleged offences or not will come to light 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.

It is needless to say that the court has to take into consideration the allegations made in the complaint while exercising inherent jurisdiction under Section 482 Cr.P.C., in order to quash the criminal proceedings at the initial stage of

investigation. The court is not justified in embarking upon an enquiry to ascertain the truthfulness, genuineness or otherwise of the allegations made in the complaint. It is a settled principle of law that the inherent power should not be exercised to stifle a legitimate investigation. If the allegations made in the complaint do not constitute the offence much less the offence alleged to have been committed by the petitioners, then this court can quash the proceedings in order to prevent abuse of process of court thereby to secure the ends of justice.

I have carefully perused the material available on record in order to ascertain whether the allegations made in the complaint are patently absurd and inherently improbable thereby to quash the proceedings. The material available on record 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 principle enunciated in **R. P. Kapoor v. State of Punjab**^[1], **State of Haryana v. Bhajan Lal**^[2], **V. Y. Jose v State of Gujarat**^[3] and **Teeja Devi v. State of Rajasthan**^[4], I am of the considered view that this is not a fit case to quash the criminal proceedings at the threshold.

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

On 08-09-2010, while admitting the criminal petition, initially this Court granted interim stay for a period of four weeks and on 28-06-2011 the same was extended until further orders.

Having regard to the facts and circumstances of the case and in view of the interim stay granted by this Court, the Station House Officer, Banjara Hills Police Station, Hyderabad, is hereby directed not to arrest the petitioner/accused in Crime No.770 of 2010 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.

T.SUNIL CHOWDARY, J

Date: 19-02-2016

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

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

[\[3\]](#) (2009) 3 SCC 78

[\[4\]](#) 2015 (1) ACR 564 (SC)