

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY
CRIMINAL PETITION No.5729 OF 2010

ORDER:

This petition is filed by the petitioner-A1 under Section 482 Cr.P.C., to quash the proceedings in Cr.No.172 of 2010 on the file of the Jadcherla Police Station, Mahaboobnagar District, registered for the offence punishable under Section 420 IPC.

2. Heard Sri H.Prahalada Reddy, learned counsel for the petitioner and the learned Public Prosecutor representing the State.

3. The contention of the learned counsel for the petitioner is that even if the allegations made in the complaint ex facie taken to be true and correct, no case is made out against the petitioner. He further submitted that in spite of stay granted by this Court, police laid charge sheet, therefore, continuation of criminal proceedings against the petitioner would certainly amount to abuse of process of Court and hence, he prays to quash the proceedings.

4. Learned Public Prosecutor representing the State submitted that this is not the stage to go into the merits of the case.

5. A perusal of the record reveals that the petitioner herein is A1 and the 2nd respondent herein is the *de facto* complainant. As per the allegations made in the complaint, on 12-06-2010 at about 4.00 P.M., the petitioner herein was transporting fertilizers to neighbouring Districts of Mahaboobnagar with an ulterior motive and thereby committed an offence punishable under Section 420 IPC.

6. Let me consider whether the allegations made in the complaint *prima facie* constitute the offence punishable under Section 420 IPC. Even as per the allegations made in the complaint, the 2nd respondent intercepted lorries on 12-06-2010 at about 4.00 P.M., at Jadcherla Railway goods shed at the time of loading the fertilizers in the lorries. It is not mentioned in the complaint that to which District the petitioner was transporting the fertilizers. Even as per the prosecution version,

the petitioner is a registered fertilizer dealer. As per the allegations made in the complaint, the fertilizers were supplied to the registered dealers for the purpose of distributing the same to the ryots of Mahaboobnagar District. There is no allegation in the complaint that they seized the lorries when they were crossing Mahaboobnagar District. Even as per the allegations made in the complaint, they have seized the lorries at the railway wagon at Jadcherla, which is a part of Mahaboobnagar District. It is not the case of the prosecution that the petitioner herein prepared the waybill and trip sheet in order to transport the fertilizers to neighbouring districts. Even if the allegations made in the complaint ex facie taken to be true and correct, no case is made out against the petitioner much less for the offence punishable under Section 420 IPC. This Court granted interim stay of all further proceedings on 28-06-2010. In spite of the interim order, police investigated into the matter and filed charge sheet. In view of interim order granted by this Court, the charge sheet filed by the police has no legal sanctity.

7. This court can quash the criminal proceedings under Section 482 Cr.P.C. in the following circumstances: (1) if the allegations made in the complaint do not constitute any offence much less the offence alleges to have been committed by the petitioner; (2) even if the allegations made in the complaint ex facie taken to be true and correct, there is no possibility of conviction of the petitioner; (3) if the registration of the case against the petitioner is prohibited by any law for the time being in force; or (4) if the registration of crime and continuation of investigation would amount to misuse of process of law.

8. 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 Gurajat**^[3] and **Teeja Devi v State of Rajasthan**^[4], I am of the considered view that continuation of criminal proceedings against the petitioner–A1 would certainly amount to abuse of process of Court.

9. Accordingly, the Criminal Petition is allowed quashing

the proceedings against the petitioner-A1 in Cr.No.172 of 2010 on the file of the Jadcherla Police Station, Mahaboobnagar District. Miscellaneous Petitions, if any, pending in this Criminal Petition shall stand closed.

-

T.SUNIL CHOWDARY, J

DATED: 10.03.2016.

Hsd

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

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

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

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