

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.2408 of 2010

ORDER:

This Criminal Petition is filed under Section 482 Cr.P.C. seeking to quash proceedings against the petitioners/A-1 to A-8 in Crime No.78 of 2010 on the file of Kurnool II Town Police Station, Kurnool, registered for the offences punishable under Sections 323, 448, 506 and 509 read with Section 34 IPC.

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Heard the learned counsel for the petitioners, the learned counsel for the 2nd respondent and the learned Public Prosecutor representing the State.

A perusal of the record reveals that the petitioners are A-1 to A-8 and the 2nd respondent is *de facto* complainant in Crime No.78 of 2010. As per the allegations made in the complaint, on 07-03-2010 at about 11.30 A.M., all the petitioners entered into the house of the 2nd respondent and beat her. It is further alleged that the petitioners herein abused the 2nd respondent in filthy language and threatened her with dire consequences. The contention of the learned counsel for the petitioners is that in order to overcome the criminal case, the second respondent foisted a false case against them. It is appears from the record that the petitioners herein have filed O.S.No.19 of 2010 on the file of Principal Senior Civil Judge's Court, Kurnool against the second respondent and her family members and obtained an injunction. Basing on the complaint lodged by the petitioners, the Station House Officer, II Town Police Station, Kurnool, registered a case in Crime No.74 of 2010 for the offences punishable under Sections 448, 506 IPC against the second respondent and her family members. The record reveals

that civil and criminal cases are pending between the parties. Whether the petitioners have 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 12-03-2010, this Court, while admitting the criminal petition, granted interim stay of further proceedings and the same has been in force till date.

Having regard to the facts and circumstances of the case and in view of the interim stay granted by this Court on 12-03-2010, the Station House Officer, Kurnool II Town Police Station, Kurnool District, is hereby directed not to arrest the petitioners/accused 1 to 8 in Crime No.78 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: 16-02-2016

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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)