

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.1734 of 2016

ORDER:

This petition is filed under Section 482 Cr.P.C. to quash the proceedings against the petitioners/A.1 to A.5 in Crime No.22 of 2016 on the file of the Station House Officer, Samalkot Police Station, East Godavari District, registered for the offences under Sections 379 and 506 read with 34 I.P.C.

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

3. A perusal of the record reveals that the petitioners are accused Nos.1 to 5 and the second respondent is the *de facto* complainant in Crime No.22 of 2016.

4. As per the allegations made in the complaint, Vuppala Appaiah Cheruvu situated in Survey No.306/3 of Chandrampalem Village belongs to Gram Panchayat. It is further alleged that the petitioners have committed theft of fish in the Gram Panchayat tank. It is also alleged that the petitioners have threatened the Gram Panchayat staff with dire consequences.

5. The contention of the learned counsel for the petitioners is that the tank in question belongs to the petitioners and not the Gram Panchayat.

6. Whether the tank in question belongs to Gram Panchayat or not will come to light during the course of investigation. While exercising the inherent power 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 as to probability, reliability or genuineness of the allegations made in the complaint at

the initial stage of 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.

7. 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 this is not a fit case to quash the criminal proceedings at the threshold.

8. 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.

9. Taking into consideration the facts and circumstances of the case, this Court is inclined to direct the Station House Officer, Samalkot Police Station, East Godavari District, not to arrest the petitioners/A.1 to A.5 in Crime No.22 of 2016 till completion of the investigation.

10. With the above direction, the Criminal Petition is dismissed.

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

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T.SUNIL CHOWDARY, J

Date: 12.02.2016

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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)