

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.72 of 2016

ORDER:

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This petition is filed under Section 482 Cr.P.C. to quash the proceedings against the petitioner/accused No.1 in Crime No.760 of 2015 on the file of Station House Officer, Pothinimallaya Palem Police Station, Visakhapatnam City, registered for the offence punishable under Sections 384, 506, 509, 420 read with 34 IPC.

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

A perusal of the record reveals that the petitioner is accused No.1 and the second respondent is the *de facto* complainant. As per the allegations made in the complaint, the second respondent borrowed an amount of Rs.3,00,000/- from the petitioner about three years back and paid nearly an amount of Rs.4,00,000/-. It is further alleged that the petitioner herein obtained signatures of the second respondent and her husband on empty promissory notes, cheques and bond papers with an ulterior motive to cheat the second respondent. It is further alleged that the petitioner herein threatened the second respondent and her husband with dire consequences. A perusal of the record reveals that the petitioner herein filed O.S.No.780 of 2014 on the file of VI Additional District Judge, Visakhapatnam and obtained decree on 01.05.2015. Whether the petitioner has committed the alleged offence or not will come to light during the course of investigation only.

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 petitioner, 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 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.

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

Having regard to the facts and circumstances of the case, the Station House Officer, Pothinimallaya Palem Police Station, Visakhapatnam, is hereby directed not to arrest the petitioner/accused No.1 in Crime No.760 of 2015 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

Date:06.01.2016

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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)