

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.148 OF 2016

ORDER:

1 This petition is filed under Section 482 Cr.P.C to quash the proceedings against the petitioners/Accused Nos.1 and 2 in Cr.No.779 of 2015 on the file of Patamata Police Station, Vijayawada registered for the offences punishable under Sections 420, 419, 467, 471 and 120-B r/w 34 of IPC.

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

3 The petitioners are accused Nos.1 and 2 and the second respondent is the de-facto complainant in Cr.No.779 of 2015 on the file of Patamata Police Station, Vijayawada. As per the allegations made in the complaint, the 2nd respondent paid an amount of Rs.2.9 crores to the accused in pursuance of an agreement of sale in the year 2010. It is further alleged that the petitioners herein are postponing execution of sale deed or payment of the money to the 2nd respondent on one pretext or the other. The gist of the allegations made in the complaint is that the petitioners herein have cheated the 2nd respondent.

4 A perusal of the record reveals that the 2nd respondent filed civil suits against the petitioners. A perusal of the record also reveals that the 2nd respondent filed C.C.No.701 of 2013 on the file of the Court of the Chief Metropolitan Magistrate, Vijayawada against the first petitioner.

4 The contention of the learned counsel for the petitioners is that the allegations made in the complaint do not constitute any

offence, much less the offences alleged to have been committed by the petitioners.

5 Whether the petitioners have committed the alleged offences or not will come to light during the course of investigation only. While disposing of the petition filed under Section 482 Cr.P.C, the Court has to take into consideration the allegations made in the complaint. The Court is not justified in embarking upon an enquiry to ascertain the truthfulness or otherwise of the allegations made in the complaint. The very purpose of investigation is to ascertain the truthfulness or otherwise of the allegations made in the complaint. The allegations made in the complaint are prima facie sufficient to investigate into the matter.

6 Having regard to the facts and circumstances of the case on hand and also the principle laid down 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 proceedings at this stage.

7 The learned counsel for the petitioners submitted that the Station House Officer, Patamata Police Station, Vijayawada, may be directed not to arrest the petitioners pending investigation in the crime.

8 Taking into consideration the nature of allegations made in the complaint and having regard to the facts and circumstances of the case, the Station House Officer, Patamata Police Station, Vijayawada is hereby directed not to arrest the petitioners who are accused Nos.1 and 2 in Cr.No.779 of 2015 on his file.

9 Accordingly, this criminal petition is dismissed. As a sequel,
miscellaneous petitions, pending if any in this Criminal Petition,
shall stand closed.

T. SUNIL CHOWDARY, J

Date: 6th January, 2016

Kvsn

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

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

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

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