

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.1079 of 2016

ORDER:

This petition is filed under Section 482 Cr.P.C. to quash the proceedings against the petitioners/A.1 and A.2 in Crime No.247 of 2015 on the file of the Station House Officer, Eluru III Town Police Station, West Godavari District, registered for the offences under Sections 420 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 and 2 and the second respondent is the *de facto* complainant in Crime No.247 of 2015.

4. As per the allegations made in the complaint, the petitioners have collected an amount of Rs.25,00,000/- from the second respondent and others by making a false promise that they will provide jobs to them. It is further alleged that the petitioners have repaid an amount of Rs.22,00,000/- to the second respondent and others. The gist of the allegations made in the complaint is that the petitioners cheated the second respondent.

5. The contention of the learned counsel for the petitioners is that the petitioners have borrowed money from the second respondent and others and repaid the same.

6. Whether the petitioners have borrowed the money from the second respondent 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.

7. 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.

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

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

10. Taking into consideration the facts and circumstances of the case, this Court is inclined to direct the Station House Officer, Eluru III Town Police Station, West Godavari District, not to arrest the petitioners/accused Nos.1 and 2 in Crime No.247 of 2015 till completion of the investigation. The petitioners are directed to co-operate with the investigating officer during the course of investigation.

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

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

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T.SUNIL CHOWDARY, J

Date: 08.02.2016

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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)