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THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.877 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.169 of 2015 on the file of the Station House Officer, Mandapeta Town Police Station, East Godavari District, registered for the offences under Sections 420 and 384 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.169 of 2015.

4. As per the allegations made in the complaint, the second respondent borrowed an amount of Rs.15,00,000/- from petitioner No.1 in the month of August, 2007 towards his family necessity. It is further alleged that petitioner No.1 had obtained General Power of Attorney (G.P.A.) from the second respondent on 09.08.2007 in respect of the immovable property as security. In spite of repayment of money, the petitioners have not cancelled the G.P.A. with an ulterior motive to cheat the second respondent.

5. A perusal of the record reveals that civil suit is pending between the parties. 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. Whether the petitioners have committed the alleged offences or not will come to light during the course of investigation.

6. 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, Mandapeta Town Police Station, East Godavari District, not to arrest the petitioners/A.1 and A.2 in Crime No.169 of 2015 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: 04.02.2016

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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)