

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION NO.15532 OF 2016

ORDER:

This petition is filed under Section 482 Cr.P.C., to quash the proceedings against the petitioner-accused in Crime No.448 of 2015 on the file of Station House Officer, Krishnalanka Police Station, Vijayawada City, Krishna District, registered for the offence punishable under Section 420 IPC.

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

3. A perusal of the record reveals that the petitioner is the accused and the 1st respondent is the *de facto* complainant in Crime No.448 of 2015. As per the allegations made in the complaint, the petitioner borrowed an amount of Rs.3,00,000/- from the 1st respondent on 05-05-2013 for his family expenses. In discharge of the above debt, the petitioner issued a cheque bearing No.549566, dated 10-10-2015 for Rs.3,00,000/- drawn on ICICI Bank Ltd., Benz Circle Branch, Vijayawada. When the 1st respondent presented the cheque in the bank for encashment, the same was returned with an endorsement 'account closed'.

4. The contention of the learned counsel for the petitioner is that even if the allegations made in the complaint *prima facie* are taken to be true and correct, no case is made out against the petitioner under Section 420 IPC.

5. Whether the petitioner committed the alleged offence 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.

6. It is a settled principle of law that the Court has to take into consideration the allegations made in the complaint while exercising the inherent power under Section 482 Cr.P.C., in order to quash the proceedings. The allegations made in the complaint are *prima facie* sufficient to investigate into the matter.

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 GUJARAT** 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 petitioner submitted that the concerned Station House Officer may be directed not to arrest the petitioner. Having regard to the facts and circumstances of the case and in view of nature of allegations made against the petitioner, the Station House Officer, Krishnalanka Police Station, Vijayawada City, Krishna District, is hereby directed not to arrest the petitioner-accused till completion of investigation in Crime No.448 of 2015.

9. With the above direction, Criminal petition is dismissed. Miscellaneous Petitions, if any, pending in this Criminal Petition shall stand closed.

T.SUNIL CHOWDARY, J

DATED: 15-11-2016.
Hsd

¹ AIR 1960 SC 866

² AIR 1992 SC 604

³ (2009) 3 SCC 78

⁴ 2015 (1) ACR 564 (SC)