

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.176 of 2016

ORDER:

This petition is filed under Section 482 Cr.P.C. to quash the proceedings against the petitioner/accused in Crime No.452 of 2015 on the file of the Station House Officer, Governorpet Police Station, Vijayawada, registered for the offences under Sections 323 and 420 I.P.C.

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 sole accused and the second respondent is the *de facto* complainant in Crime No.452 of 2015.

4. As per the allegations made in the complaint, the second respondent borrowed money from the Indian Bank, Governorpet, Vijayawada and the petitioner herein stood as guarantor. It is further alleged that the second respondent paid an amount of Rs.30,00,000/- to the petitioner. The petitioner repaid Rs.9,00,000/- and postponing the payment of the remaining amount on one pretext or other. It is also alleged that the petitioner threatened the second respondent with dire consequences. The gist of the allegations made in the complaint is that the petitioner postponing the payment of money to the second respondent with an ulterior motive to cheat him.

5. Whether the petitioner has committed the alleged offences or not will come to light during the course of investigation. 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.

6. Having regard to the facts and circumstances of the case and also the principles enunciated by the Supreme Court in **R.P.Kapoor v. State of Punjab**^[1] and **State of Haryana v. Bhajanlal**^[2], I am of the considered view that it is not a fit case to quash the proceedings at the initial stage of the investigation.

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

8. Taking into consideration the facts and circumstances of the case, this Court is inclined to direct the Station House Officer, Governorpet Police Station, Vijayawada, not to arrest the petitioner/accused in Crime No.452 of 2015 till completion of the investigation.

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

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

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T.SUNIL CHOWDARY, J

Date: 07.01.2016

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^[1] AIR 1960 SC 866

^[2] AIR 1992 SC 604