

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.918 of 2016

ORDER:

-

This petition is filed under Section 482 Cr.P.C. to quash the proceedings against the petitioner/accused in Crime No.39 of 2015 on the file of Station House Officer, Besthavaripeta Police Station, Prakasam District, registered under Sections 420 and 506 IPC.

-

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

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.39 of 2015. As per the allegations made in the complaint, the second respondent is the sub-contractor of the petitioner and he executed the contract work on behalf of the petitioner. It is further alleged that the petitioner herein postponing the payment of money to the second respondent with an ulterior motive to cheat him. A perusal of the record reveals that the petitioner executed a General Power of Attorney in favour of the second respondent. Whether the second respondent executed a bank guarantee and other documents on behalf of the petitioner or not will come to light during the course of investigation only.

It is needless to say that the court has to take into consideration the allegations made in the complaint while exercising inherent jurisdiction under Section 482 Cr.P.C., in order to quash the criminal proceedings at the initial stage of investigation. The court is not justified in embarking upon an enquiry to ascertain the truthfulness, genuineness or otherwise of

the allegations made in the complaint. It is a settled principle of law that the inherent power should not be exercised to stifle a legitimate investigation. If the allegations made in the complaint do not constitute the offence much less the offence alleged to have been committed by the petitioner, then this court can quash the proceedings in order to prevent abuse of process of court thereby to secure the ends of justice.

I have carefully perused the material available on record in order to ascertain whether the allegations made in the complaint are patently absurd and inherently improbable thereby to quash the proceedings. The material available on record is *prima facie* sufficient to investigate into the matter in order to ascertain the truthfulness or otherwise of the allegations made in the complaint.

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.

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

Taking into consideration the facts and circumstances of the case, the Station House Officer, Besthavaripeta Police Station, Prakasam District, is hereby directed not to arrest the petitioner/accused in Crime No.39 of 2015 till completion of

investigation.

With the above direction, the Criminal Petition is dismissed.

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

-
T.SUNIL CHOWDARY, J

Date:28.01.2016

Rns

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

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

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

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