

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION NO.15931 OF 2016

ORDER:

This petition is filed under Section 482 Cr.P.C., to quash the proceedings against the petitioners-A2 and A3 in Crime No.128 of 2016 on the file of Station House Officer, Gudur I Town Police Station, SPSR Nellore District, registered for the offences punishable under Sections 420 and 506 r/w IPC

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 A2 and A3 and the second respondent is *de facto* complainant in Crime No.128 of 2016. It is the case of the prosecution that the 1st petitioner cheated the 2nd respondent. It is further alleged that the petitioners herein threatened the 2nd respondent with dire consequences.

4. Learned counsel for the petitioners submitted that the allegations made in the complaint do not constitute the offence punishable under Section 420 IPC.

5. This is not the stage to go into the merits of the main case. The Court cannot conduct roving enquiry at the initial stage of the investigation. The Court has to take into consideration the allegations made in the complaint. 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. The material available on record is *prima facie* sufficient to investigate into the matter.

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 petitioners submitted that the concerned Station House Officer may be directed not to arrest the petitioners. Having regard to the facts and circumstances of the case and in view of nature of allegations made in the complaint, the Station House Officer, Gudur I Town Police Station, SPSR Nellore District is hereby directed not to arrest the petitioners-A2 and A3 till completion of investigation in Crime No.128 of 2016.

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: 14-11-2016.
Hsd

¹ AIR 1960 SC 866

² AIR 1992 SC 604

³ (2009) 3 SCC 78

⁴ 2015 (1) ACR 564 (SC)