

**THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY**

**CRIMINAL PETITION No.4344 of 2017**

**ORDER:**

This petition is filed under Section 482 Cr.P.C. to quash the proceedings against the petitioner/A.1 in Crime No.41 of 2017 on the file of the Station House Officer, II Town Police Station, Visakhapatnam City, registered for the offence punishable under Section 379 read with 34 I.P.C.

2. Learned counsel for the petitioner submitted that the allegations made in the complaint do not constitute any offence much the offence punishable under Section 379 I.P.C. He further submitted that a false case was registered against the petitioner at the behest of the third parties.

3. Learned Assistant Public Prosecutor submitted that the allegations made in the complaint *prima facie* constitute the offence alleged to have been committed by the petitioner.

4. A perusal of the record reveals that the petitioner is accused No.1 and the second respondent is the *de facto* complainant in Crime No.41 of 2017.

5. As per the allegations made in the complaint, the petitioner filed an application for return of documents in O.S.No.2070 of 1997 on the file of the Court of the Principal Junior Civil Judge, Visakhapatnam and had taken away the documents without any authority. It is further alleged that the advocate, who filed the application for return of the documents, is not holding vakalat on behalf of either plaintiff or defendants.

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. Whether the petitioner has committed the alleged offence or not will come to light during the course 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<sup>1</sup>**, **State of Haryana v. Bhajan Lal<sup>2</sup>**, **V.Y.Jose v. State of Gurajat<sup>3</sup>** and **Teeja Devi v. State of Rajasthan<sup>4</sup>**, I am of the considered view that it is not a fit case to quash the criminal proceedings at the threshold.

8. Taking into consideration the facts and circumstances of the case and also the principle enunciated by the Supreme Court in **Arnesh Kumar v. State of Bihar<sup>5</sup>**, the Station House Officer, Visakhapatnam II Town Police Station, Visakhapatnam City, is hereby directed to follow the procedure as contemplated under Section 41A Cr.P.C. in Crime No.41 of 2017 so far as the petitioner/A.1 is concerned.

9. With the above direction, the Criminal Petition is disposed of.

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<sup>1</sup> AIR 1960 SC 866

<sup>2</sup> AIR 1992 SC 604

<sup>3</sup> (2009) 3 SCC 78

<sup>4</sup> 2015 (1) ACR 564 (SC)

<sup>5</sup> (2014) 8 SCC 273

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

**T.SUNIL CHOWDARY, J**

Date: 14.06.2017  
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