

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.5320 of 2017

ORDER:

This petition is filed under Section 482 Cr.P.C. to quash the proceedings against the petitioner/accused No.4 in Crime No.18 of 2017 on the file of the Station House Officer, Bestavaripeta Police Station, Prakasam District, registered for the offence punishable under Sections 420 and 506 read with 34 IPC and under Section 3(I)(II)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act.

2. Learned counsel for the petitioner submitted that the petitioner ceased to be partner of M/s.Viscous Mini Chilling Centre, Racherla, since 2015. He further submitted that the allegations made in the complaint do not constitute any offence much less the offence alleged to have been committed by the petitioner, therefore, it is a fit case to quash the proceedings. ***Per contra***, learned Public Prosecutor for the State of Andhra Pradesh submitted that the allegations made in the complaint *prima facie* constitute the offence alleged to have been committed by the petitioner.

3. A perusal of the record reveals that the petitioner is accused No.4 and the second respondent is the *de facto* complainant. A perusal of the record reveals that on 13.10.2015, the petitioner got issued a notice to accused Nos.1 to 3 (other partners) stating that he is intending to

retire from the partnership. The petitioner also filed O.S.No.1 of 2016 on the file of the III Additional District Judge, Kurnool at Nandyal against the other accused for dissolution of partnership firm and rendition of accounts. As per the allegations made in the complaint, M/s.Viscous Mini Chilling Centre, used to collect milk from various farmers and supply the same to the milk dairy on commission basis. It is further alleged that the partnership firm had taken the loans from the bank in the name of the farmers and failed to repay the same. It is further alleged that the petitioner abused and insulted the second respondent in the name of his caste. The gist of the allegations made in the complaint is that the petitioner along with other accused cheated the second respondent and insulted him.

4. 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.

5. 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 it is not a fit case to quash the criminal proceedings at the threshold.

6. 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**⁵, the Station House Officer, Besthavaripeta Police Station, Prakasam District, is hereby directed to follow the procedure as contemplated under Section 41-A Cr.P.C. in Crime No.18 of 2017 so far as the petitioner/accused No.4 is concerned.

7. With the above direction, the Criminal Petition is disposed of. Consequently, Miscellaneous Petitions, if any, pending in this Criminal Petition shall stand closed.

T.SUNIL CHOWDARY, J

Date: 07.07.2017
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¹ AIR 1960 SC 866

² AIR 1992 SC 604

³ (2009) 3 SCC 78

⁴ 2015 (1) ACR 564 (SC)

⁵ (2014) 8 SCC 273

