

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.5564 of 2017

ORDER:

This petition is filed under Section 482 Cr.P.C. to quash the proceedings against the petitioners/accused Nos.1 and 2 in Crime No.90 of 2017 on the file of the Station House Officer, Santhosh Nagar Police Station, Hyderabad, registered for the offence punishable under Sections 420, 406 and 379 IPC.

2. Learned counsel for the petitioners submitted that even if the allegations made in the complaint *ex facie* taken to be true and correct, no case is made out so far as the offence under Section 406 is concerned. He further submitted that the second respondent foisted a false case against the petitioners at the behest of one K.Srinivasa Reddy, therefore, it is a fit case to quash the proceedings against the petitioners. ***Per contra***, learned Assistant Public Prosecutor for the State of Telangana submitted that the allegations made in the complaint *prima facie* constitute the offence alleged to have been committed by the petitioners.

3. A perusal of the record reveals that the petitioners are accused Nos.1 and 2 and the second respondent is the *de facto* complainant. As per the allegations made in the complaint, one K.Srinivasa Reddy, handed over the agreement of sale dated 18.07.2014 to the second respondent. It is

further alleged that the first petitioner/Accused No.1 taken away the agreement of sale dated 18.07.2014 from the office of the second respondent without his consent. When the second respondent questioned Accused No.1 about the agreement of sale dated 18.07.2014, he assured that he will hand over the same to K.Srinivasa Reddy. It is further alleged that the first petitioner/accused No.1 gave the said agreement of sale to Accused No.2 instead of K.Srinivasa Reddy. The entire controversy revolves around the existence of agreement of sale dated 18.07.2014. The gist of the allegations made in the complaint is that the petitioners herein committed theft and cheated the second respondent with an ulterior motive.

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 petitioners have 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 Punjab¹, State of Haryana v. Bhajan Lal², V.Y.Jose v. State of Gujarat³ and Teeja Devi v. State of Rajasthan⁴, 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 Bihar⁵**, the Station House Officer, Santhosh Nagar Police Station, Hyderabad, is hereby directed to follow the procedure as contemplated under Section 41-A Cr.P.C. in Crime No.90 of 2017 so far as the petitioners/accused Nos.1 and 2 are 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.

as

T.SUNIL CHOWDARY, J

Date: 13.07.2017
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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

