

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.5646 of 2017

ORDER:

This petition is filed under Section 482 Cr.P.C. to quash the proceedings against the petitioner/accused No.1 in Crime No.459 of 2017 on the file of the Station House Officer, Panjagutta Police Station, Hyderabad City, registered for the offences under Sections 406 and 420 IPC.

2. Learned counsel for the petitioner submitted that even if the allegations made in the complaint *ex facie* taken to be true and correct, no offence is made out against the petitioner. He further submitted that the second respondent foisted a false case against the petitioner, therefore, it is a fit case to quash the proceedings. ***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 petitioner.

3. A perusal of the record reveals that the petitioner is accused No.1 and the second respondent is the *de facto* complainant. As per the allegations made in the complaint, the petitioner herein collected money assuring that the son of the second respondent will get admission in a recognized college in Russia. It is further alleged that the son of the second respondent was forced to study in unrecognized college in Russia. The gist of the allegations made in the

complaint is that the petitioner herein cheated the second respondent and misappropriated the money of the second respondent.

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

¹ AIR 1960 SC 866

² AIR 1992 SC 604

³ (2009) 3 SCC 78

⁴ 2015 (1) ACR 564 (SC)

Court in **Arnesh Kumar v State of Bihar**⁵, the Station House Officer, Panjagutta Police Station, Hyderabad city, is hereby directed to follow the procedure as contemplated under Section 41-A Cr.P.C. in Crime No.459 of 2017 so far as the petitioner/accused No.1 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.

Date: 14.07.2017
Rns

T.SUNIL CHOWDARY, J



⁵ (2014) 8 SCC 273