

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

**WRIT PETITION No.18164 of 2017**

**ORDER:**

This petition is filed under Article 226 of the Constitution of India seeking to quash the proceedings against the petitioner-accused No.1 in Crime No.84 of 2017 on the file of the Station House Officer, Narasapuram Town Police Station, West Godavari District, registered for the offences punishable under Sections 353 and 332 read with 34 IPC.

2. The learned counsel for the petitioner submitted that the alleged incident had taken place on Sunday, therefore, the ingredients of Section 353 IPC are not satisfied. He further submitted that even if the allegations made in the complaint *ex facie* taken to be true, no case is made out against the petitioner.

3. *Per contra*, learned Assistant Government Pleader submitted that the allegations made in the complaint, *prima facie*, constitute the offences alleged to have been committed by the petitioner.

4. A perusal of the record reveals that the petitioner is accused No.1 and respondent No.4 is the *de facto* complainant in Crime No.84 of 2017. It is not in dispute that respondent No.4 has been working as Tahasildar of Mogaltur Mandal, West Godavari District. As per the allegations made in the complaint, on 14.05.2017 at about 10.00 p.m., the petitioner along with another stopped the car of respondent No.4 and threatened him as if they are ACB officials. It is further alleged that the petitioner herein beat respondent No.4.

5. While deciding the petition filed under Article 226 of the Constitution of India, the Court has to take into consideration the allegations made in the complaint. The Court is not justified in embarking upon an enquiry to ascertain the truthfulness or otherwise of the allegations made in the complaint. The very purpose of investigation is to ascertain the truthfulness or otherwise of the allegations made in the complaint. Whether the petitioner has committed the offences alleged or not will come to light during the course of investigation. The allegations made in the complaint are prima facie sufficient to investigate into the matter.

6. 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.

7. The learned counsel for the petitioner submitted that the Station House Officer, Narasapuram Town Police Station, West Godavari District, may be directed not to arrest the petitioner/accused No.1 pending investigation in the crime.

8. Taking into consideration the nature of allegations made in the complaint and in view of the principle enunciated by the Hon'ble

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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)

Apex Court in **Arnesh Kumar v State of Bihar**<sup>5</sup>, Station House Officer, Narasapuram Town Police Station, West Godavari District, is hereby directed to follow the procedure as contemplated under Section 41 A of Cr.P.C., in Cr.No.84 of 2017 so far as the petitioner/accused No.1 is concerned.

9. With the above observations and direction, this Writ Petition is disposed of. As a sequel, miscellaneous petitions, pending if any in this Writ Petition, shall stand closed. No order as to costs.

9<sup>th</sup> June 2017.

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**T. SUNIL CHOWDARY, J**



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<sup>5</sup> 2014(8) SCALE 250