

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.4780 of 2017

ORDER:

This petition is filed under Section 482 Cr.P.C. to quash the proceedings against the petitioner/accused No.13 in Crime No.215 of 2017 on the file of the Station House Officer, Piduguralla Town Police Station, Guntur District, registered for the offences punishable under Sections 420, 481, 482, 464, 483 and 506 I.P.C., and Sections 78 and 79 of the Trade and Merchandise Marks Act, 1958.

2. The learned counsel for the petitioner submitted that the allegations made in the complaint do not constitute any offence much the offences alleged to have been committed by the petitioner. He further submitted that due to business rivalry, the second respondent foisted a false case against the petitioner.

3. The learned Public Prosecutor 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.13 and the second respondent is the *de-facto* complainant in Crime No.215 of 2017.

5. As per the allegations made in the complaint, the petitioner, who is the Proprietor of Vamsi Krishna Industries, along with others is selling the limestone in the name of trade marks of the second respondent i.e., "Surya Cem/Surya Cool/Surya Colours" with an ulterior motive to cause financial loss to him.

6. Whether the petitioner forged the trade marks of the second respondent or not will come to light during the course of investigation. 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. 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**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.

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**⁵, the Station House Officer, Piduguralla Town Police Station, Guntur District, is hereby directed to follow the procedure as contemplated under Section 41A Cr.P.C. in Crime No.215 of 2017 so far as the petitioner/accused No.13 is concerned.

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

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

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

T.SUNIL CHOWDARY, J

Date: 04.07.2017

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