

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.5387 OF 2017

ORDER:

This petition is filed under Section 482 Cr.P.C. to quash the proceedings against the petitioner/sole accused in Crime No.245 of 2017 on the file of the Station House Officer, Raidurgam Police Station, Cyberabad, registered for the offence punishable under Section 420 IPC.

2. Learned counsel for the petitioner submitted that the 2nd respondent foisted a false case against the petitioner. 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. ***Per contra***, learned Assistant Public Prosecutor 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 the sole accused and the 2nd respondent is the *de facto* complainant in Cr.No.245 of 2017. As per the allegations made in the complaint, the petitioner and the 2nd respondent purchased flats from Chitrapuri Cine Association Housing Society on instalment basis. The 2nd respondent paid nearly Rs.8,00,000/- to the petitioner to pay instalments to the Society. However, the petitioner handed over the receipts alleged to have been issued by the Chitrapuri Cine Association Housing Society to the 2nd respondent. The gist of the allegations made in the complaint is that the petitioner, without paying instalments to the Society, produced fake receipts and thereby cheated the 2nd 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 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 GURAJAT³** 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, Raidurgam Police Station, Cyberabad, is hereby directed to follow the procedure as contemplated under Section 41-A Cr.P.C. in Crime No.245 of 2017 so far as the petitioner/sole accused is concerned.

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

T.SUNIL CHOWDARY, J

DATED: 10-07-2017

Hsd

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