

THE HON' BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.4360 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.48 of 2017 on the file of the Station House Officer, Bommaramamaram Police Station, registered under Section 420 IPC and Section 7 of Essential Commodities Act.

2. Learned counsel for the petitioner submitted that it is a fit case to quash the FIR on the following grounds:

1. No crime can be registered basing on the confessional statement of the accused and;

2. Even if the allegations made in the complaint are *ex facie* taken to be true and correct, no case is made out against the petitioner.

3. 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.

4. A perusal of the record reveals that the petitioner is A1 and the second respondent is the *de facto* complainant. As per the allegations made in the complaint, accused Nos.2 to 5 unauthorisedly purchased PDS rice from the card-holders. It is further alleged that the petitioner herein purchased 10 quintals of PDS rice from the other accused at the rate of Rs.12/- per kg. in order to sell the same at higher rate in the open market. The gist

of the allegations made in the complaint is that the petitioner herein indulged in illegal activities.

5. 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.

6. 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 Gurajat*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.

7. 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, Bommaramaram Police Station, is hereby directed to follow the

¹ AIR 1960 SC 866

² AIR 1992 SC 604

³ (2009) 3 SCC 78

⁴ 2015 (1) ACR 564 (SC)

⁵ 2014 (8) SCALE 250

procedure as contemplated under Section 41A Cr.P.C. in Crime No.48 of 2017 so far as the petitioner/ accused No.1 is concerned.

8. With the above direction, the Criminal Petition is disposed of. Consequently, Miscellaneous Petitions, if any, pending in this Criminal Petition shall stand closed.

T.SUNIL CHOWDARY, J

Date:14.06.2017
Rns

