THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.5991 OF 2017

ORDER:

This petition is filed under Section 482 Cr.P.C. to quash the proceedings against the petitioner/accused No.6 in Crime No.89 of 2017 on the file of the Station House Officer, Podili Police Station, Prakasam District, registered for the offences punishable under Sections 448, 324 and 323 r/w 34 IPC.

2. Learned counsel for the petitioner submitted that the petitioner was subsequently added by the police at the instance of the 2nd respondent. He further submitted that even if the allegations made in the complaint *ex facie* taken to be true and correct, no *prima* facie case is made out against the petitioner; therefore, it is a fit case to quash the proceedings. ***Per contra***, learned Assistant Public Prosecutor submitted that the allegations made in the complaint *prima facie* constitute the offences alleged to have been committed by the petitioner.

3. A perusal of the record reveals that the petitioner is accused No.6 and the 2nd respondent is the *de* facto complainant in Cr.No.89 of 2017. Originally, police registered a case under Sections 448, 324 and 323 r/w 34 IPC. During the course of investigation, Section 448 IPC was deleted and Sections 120-B and 452 IPC were added. As per the allegations made in the complaint, on 06-07-2017 at about 3.00 P.M., the other accused went to the house of the 2nd respondent and beat him. As per the allegations made in the remand report, at the instance of the petitioner, the other accused beat 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 has committed the alleged offences 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 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.

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 BIHAR [5]**, the Station House Officer, Podili Police Station, Prakasam District, is hereby directed to follow the procedure as contemplated under Section 41-A Cr.P.C. in Crime No.89 of 2017 so far as the petitioner/accused No.6 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: 21-07-2017
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