

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.4038 OF 2017

ORDER:

This petition is filed under Section 482 Cr.P.C. to quash the proceedings against the petitioners/A1 to A3 in Crime No.74 of 2017 on the file of the Station House Officer, Etcherla Police Station, Srikakulam District, registered for the offences punishable under Sections 417 and 354-D IPC and 3(1) (r) (s) of SC, ST (PoA) Act, 2015.

2. Heard the learned counsel for the petitioners and the learned Assistant Public Prosecutor for the State of Andhra Pradesh.

3. A perusal of the record reveals that the petitioners are A1 to A3 and the 2nd respondent is the *de facto* complainant in Cr.No.74 of 2017. As per the allegations made in the complaint, A1 developed intimacy with the 2nd respondent, who is a married woman. It is further alleged that during the panchayat, elders advised the 1st petitioner to continue cohabitation with the 2nd respondent without marrying her. It is the further case of the prosecution that on 01-05-2017 petitioners 2 and 3 abused the 2nd respondent in the name of her caste.

4. Learned counsel for the petitioners submitted that even if the allegations made in the complaint are *ex facie* taken to be true and correct, no case is made out against the petitioners.

5. Per contra, learned Assistant Public Prosecutor submitted that the allegations made in the complaint *prima facie* sufficient to investigate into the matter.

6. 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 petitioners 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.

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 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.

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, Etcherla Police Station, Srikakulam District, is hereby directed to follow the procedure as contemplated under Section 41A Cr.P.C. in Crime No.74 of 2017 so far as the petitioners/A1 to A3 are concerned.

9. 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: 07-06-2017
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) SCALE 250