

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.4116 OF 2017

ORDER:

This petition is filed under Section 482 Cr.P.C. to quash the proceedings against the petitioners/A1 to A6 in Crime No.169 of 2017 on the file of the Station House Officer, Rayadurgam Police Station, Cyberabad, registered for the offence punishable under Section 420 IPC.

2. Learned counsel for the petitioners submitted that the lis between the parties is purely of civil in nature without any element of criminality. He further submitted that even if the allegations made in the complaint are taken to be true and correct, no case is made out against the petitioners. ***Per contra***, learned Assistant Public Prosecutor submitted that the allegations made in the complaint are *prima facie* sufficient to investigate into the matter.

3. A perusal of the record reveals that the petitioners are A1 to A6 and the 2nd respondent is the *de facto* complainant in Cr.No.169 of 2017. As per the allegations made in the complaint, the petitioners have leased out the Government land to the 2nd respondent as if it is their ancestral property. It is further alleged that the petitioners herein collected rent from the 2nd respondent without any right whatsoever. The gist of the allegations made in the complaint is the petitioners 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 dispute involved between the parties is of civil in nature 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, Rayadurgam Police Station, Cyberabad, is hereby directed to follow the procedure as contemplated under Section 41A Cr.P.C. in Crime No.169 of 2017 so far as the petitioners/A1 to A6 are concerned.

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

DATED: 08-06-2017
Hsd

T.SUNIL CHOWDARY, J

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