

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.4664 of 2017

ORDER:

This petition is filed under Section 482 Cr.P.C. to quash the proceedings against the petitioners/ accused Nos.1 and 2 in Crime No.111 of 2017 on the file of the Station House Officer, Banaganapalli Police Station, Kurnool District, registered under Sections 419, 420, 506, 509 read with 34 IPC.

2. Learned counsel for the petitioners submitted that the lis involved between the parties is purely civil in nature without any element of criminality. He further submitted that even if the allegations made in the complaint *ex facie* taken to be true and correct, no offence is made out against the petitioners punishable under Sections 419, 420, 506 and 509 IPC. Learned Assistant Public Prosecutor submitted that the allegations made in the complaint *prima facie* constitute the offence alleged to have been committed by the petitioners.

3. A perusal of the record reveals that the petitioners are A1 and A2 and the second respondent is the *de facto* complainant in Crime No.111 of 2017. As per the allegations made in the complaint, on 30.12.2013 the petitioners herein along with other sisters executed a partition deed without giving any share to the second respondent. It is further alleged that the second respondent came to know about the partition deed in the month of April 2017. It is further alleged that the petitioners herein

threatened the second respondent with dire consequences when she questioned them about the partition deed dated 30.12.2013. The gist of the allegations made in the complaint is that the petitioners brought into existence the partition deed dated 30.12.2013 to cheat the second respondent.

4. It is not in dispute that the second respondent is not a party to the partition deed dated 30.12.2013. For one reason or other, the petitioners have not given any share to the second respondent in the family property.

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 petitioners have 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

¹ AIR 1960 SC 866

² AIR 1992 SC 604

³ (2009) 3 SCC 78

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.

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 Bihar⁵, the Station House Officer, Banaganapalli Police Station, Kurnool District, is hereby directed to follow the procedure as contemplated under Section 41-A Cr.P.C. in Crime No.111 of 2017 so far as the petitioners/ accused Nos.1 and 2 are 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.

Date:21.06.2017
Rns

T.SUNIL CHOWDARY, J

⁴ 2015 (1) ACR 564 (SC)

⁵ 2014 (8) SCALE 250