

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.4902 of 2017

ORDER:

This petition is filed under Section 482 Cr.P.C. to quash the proceedings against the petitioner/accused in Crime No.362 of 2017 on the file of the Station House Officer, Jawaharnagar Police Station, registered under Section 420 IPC.

2. Learned counsel for the petitioner submitted that the lis involved between the parties is purely civil in nature without any element of criminality. He further submitted that the complaint is not maintainable under law, therefore, it is a fit case to quash the proceedings. 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.

3. A perusal of the record reveals that the petitioner is the sole accused and the second respondent is the *de facto* complainant. As per the allegations made in the complaint, the petitioner borrowed an amount of Rs.3,00,000/- from the second respondent in the month of May 2014. It is further alleged that the petitioner herein issued a cheque bearing No.000001 dated 28.05.2016 for an amount of Rs.2,55,000/- drawn on Andhra Bank, Yapral Branch, in favour of the second respondent. The second

respondent presented the cheque for collection and the same was returned with an endorsement 'account closed'. The gist of the allegations made in the complaint is that the petitioner issued the cheque by closing the bank account with an intention to cheat the second respondent-complainant.

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 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.

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 Gujarat**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.

¹ AIR 1960 SC 866

² AIR 1992 SC 604

³ (2009) 3 SCC 78

⁴ 2015 (1) ACR 564 (SC)

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, Jawaharnagar Police Station, is hereby directed to follow the procedure as contemplated under Section 41-A Cr.P.C. in Crime No.362 of 2017.

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

Date:28.06.2017
Rns

T.SUNIL CHOWDARY, J



⁵ 2014 (8) SCALE 250