

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.5544 of 2017

ORDER:

This petition is filed under Section 482 Cr.P.C. to quash the proceedings against the petitioner/accused No.2 in Crime No.66 of 2017 on the file of the Station House Officer, Nandipet Police Station, Nizamabad District, registered for the offence punishable under Section 420 I.P.C.

2. The learned counsel for the petitioner strenuously submitted that the allegations made in the complaint do not constitute any offence much less the offence alleged to have been committed by the petitioner. He further submitted that the petitioner handed over the visa, passport and flight ticket to the second respondent as promised by him.

3. The 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.

4. A perusal of the record reveals that the petitioner is accused No.2 and the second respondent is the *de-facto* complainant in Crime No.66 of 2017.

5. As per the allegations made in the complaint, the petitioner and accused No.1 promised the second respondent and others that they will provide working visas to go to Malaysia. Believing the words of the petitioner, the second respondent and others have paid an amount of Rs.7,00,000/- to them. The petitioner handed over the visas, passports and flight tickets in Rajiv Gandhi

International Airport, Hyderabad to the second respondent. After verification, the second respondent found that the visa provided by the petitioner is the tourist visa and not the working visa. It is further alleged that the petitioner assured the second respondent and others that they will send the working visas within fifteen days. After completion of the tourist visas, the second respondent and others having no other alternative came to India. The gist of the allegations made in the complaint is that the petitioner along with accused No.1 cheated the second respondent and others.

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 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.

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 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)

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, Nandipet Police Station, Nizamabad District, is hereby directed to follow the procedure as contemplated under Section 41A Cr.P.C. in Crime No.66 of 2017 so far as the petitioner/accused No.2 is concerned.

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

Date: 13.07.2017
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T.SUNIL CHOWDARY, J



⁵ (2014) 8 SCC 273