

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.5185 of 2017

ORDER:

This petition is filed under Section 482 Cr.P.C. to quash the proceedings against the petitioner/accused No.1 in Crime No.194 of 2017 on the file of the Station House Officer, Gachibowli Police Station, Cyberabad, registered for the offence punishable under Sections 447, 427 and 506 IPC.

2. Learned counsel for the petitioner 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 second respondent foisted a false case only to harass the petitioner. ***Per contra***, learned Assistant Public Prosecutor for the State of Telangana 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 herein is accused No.1 and the second respondent is the *de facto* complainant. A perusal of the record reveals that on 29.04.2017 the petitioner along with others trespassed into the land of the second respondent and damaged the property. It is further alleged that the petitioner herein threatened the second respondent with dire consequences.

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.

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, Gachibowli Police Station, Cyberabad, is hereby directed to follow the procedure as contemplated under Section 41-A Cr.P.C. in Crime No.194 of 2017.

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

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

T.SUNIL CHOWDARY, J

Date: 05.07.2017
Rns

