

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.5404 of 2017

ORDER:

This petition is filed under Section 482 Cr.P.C. to quash the proceedings against the petitioners/accused Nos.2 and 8 in Crime No.190 of 2017 on the file of the Station House Officer, Narayanguda Police Station, Hyderabad City, registered for the offences punishable under Sections 406, 420 and 506 read with 34 I.P.C.

2. The learned counsel for the petitioners strenuously submitted that the second respondent foisted a false case against the family members of accused No.1 with an ulterior motive to harass them. He further submitted that the allegations made in the complaint do not constitute any offence much less the offences alleged to have been committed by the petitioners.

3. The learned Assistant Public Prosecutor submitted that the allegations made in the complaint *prima facie* constitute the offences alleged to have been committed by the petitioners.

4. A perusal of the record reveals that the petitioners are accused Nos.2 and 8 and the second respondent is the *de-facto* complainant in Crime No.190 of 2017. It further reveals that the date of the marriage of the son of the second respondent and accused No.1 was fixed as 05.3.2017. The engagement function was also performed on 06.02.2017.

5. As per the allegations made in the complaint, the second respondent paid an amount of Rs.55,00,000/- to the first petitioner through RTGS at the instance of other accused. It is further alleged that the first petitioner gave cheques to the second respondent to a tune of Rs.55,00,000/-. The second respondent presented one cheque for collection and the same was dishonoured. For one reason or other, the marriage proposal of the son of the second respondent with accused No.1 was cancelled. The gist of the allegations made in the complaint is that the petitioners herein cheated the second respondent and misappropriated her money.

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 petitioners have committed the alleged offences 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

¹ AIR 1960 SC 866

² AIR 1992 SC 604

³ (2009) 3 SCC 78

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.

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, Narayanguda Police Station, Hyderabad City, is hereby directed to follow the procedure as contemplated under Section 41A Cr.P.C. in Crime No.190 of 2017 so far as the petitioners/accused Nos.2 and 8 are concerned.

9. With the above direction, the Criminal Petition is disposed of.

10. Consequently, Miscellaneous Petitions, if any, pending in this Criminal Petition shall stand closed.

Date: 10.07.2017
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T.SUNIL CHOWDARY, J

⁴ 2015 (1) ACR 564 (SC)

⁵ (2014) 8 SCC 273