

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.5732 of 2017

ORDER:

This petition is filed under Section 482 Cr.P.C. to quash the proceedings against the petitioner/sole accused in Crime No.82 of 2017 on the file of the Station House Officer, Kaghaznagar (Town) Police Station, Komaram Bheem (Asifabad) District, registered for the offence punishable under Section 420 I.P.C.

2. The learned counsel for the petitioner strenuously submitted that the petitioner has nothing to do with the company affairs of M/s. Alchemist Infra Reality Limited. He further submitted that even if the allegations made in the complaint *ex-facie* taken to be true and correct, no case is made out against the petitioner for the offence punishable under Section 420 I.P.C., therefore it is a fit case to quash the proceedings.

3. The learned Assistant Public Prosecutor submitted that the allegations made in the complaint constitute the offence alleged to have been committed by the petitioner.

4. A perusal of the record reveals that the petitioner is the sole accused and the second respondent is the *de-facto* complainant in Crime No.82 of 2017.

5. As per the allegations made in the complaint, the petitioner induced the second respondent and other villagers to invest money in M/s. Alchemist Infra Reality Company Limited for a period of three years. In pursuance of the inducement of the petitioner, the second respondent invested an amount of Rs.1,00,000/-, by taking

a bond, for a period of three years, in the year 2013. After maturity of the bond, the petitioner paid an amount of Rs.50,000/- and failed to pay the remaining amount of Rs.50,000/-. It is further alleged that the petitioner alone had paid the interest to the second respondent. The gist of the allegations made in the complaint is that the petitioner herein cheated the second respondent.

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.

8. Taking into consideration the facts and circumstances of the case and also the principle enunciated by the Supreme Court in

¹ AIR 1960 SC 866

² AIR 1992 SC 604

³ (2009) 3 SCC 78

⁴ 2015 (1) ACR 564 (SC)

Arnesh Kumar v. State of Bihar⁵, the Station House Officer, Kaghaznagar (Town) Police Station, Komaram Bheem (Asifabad) District, is hereby directed to follow the procedure as contemplated under Section 41A Cr.P.C. in Crime No.82 of 2017 so far as the petitioner/sole accused 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.

T.SUNIL CHOWDARY, J

Date: 17.07.2017
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⁵ (2014) 8 SCC 273