

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.5407 of 2017

ORDER:

This petition is filed under Section 482 Cr.P.C. to quash the proceedings against the petitioner/A.1 in Crime No.124 of 2016 on the file of the Station House Officer, Nellore IV Town Police Station, S.P.S.R. Nellore District, registered for the offence punishable under Section 420 read with 34 I.P.C.

2. Learned counsel for the petitioner submitted that the allegations made in the complaint will not fall within the ambit of Section 420 I.P.C. He further submitted that the second respondent foisted a false case against the petitioner. He also submitted that this Court disposed of Criminal Petition Nos.4716 and 4952 of 2017 so far as accused Nos.2, 6 and 8 are concerned.

3. Learned Public Prosecutor for the State of Andhra Pradesh 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.1 and the second respondent is the *de facto* complainant in Crime No.124 of 2016. As per the allegations made in the complaint, the petitioner herein along with other accused cheated the second respondent to a tune of Rs.1,18,50,000/-. The gist of the allegations made in the complaint is that the petitioner cheated the second respondent.

5. 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.

6. 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.

7. 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, Nellore IV Town Police Station, S.P.S.R. Nellore District, is hereby directed to follow the procedure as contemplated under Section 41A Cr.P.C. in Crime No.124 of 2016 so far as the petitioner/A.1 is concerned.

8. 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: 10.07.2017
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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