

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.3989 of 2017

ORDER:

This petition is filed under Section 482 Cr.P.C. to quash the proceedings against the petitioners-A1 to A3 in Crime No.87 of 2017 on the file of the Station House Officer, Tirupathi East Police Station, registered for the offences punishable under Sections 406 and 420 read with 34 IPC.

2. Heard the learned counsel for the petitioners and the learned Assistant Public Prosecutor for the first respondent-State of Andhra Pradesh.

3. A perusal of the record reveals that the petitioners are A1 to A3 and second respondent is *de facto* complainant in Crime No.87 of 2017. As per the allegations made in the complaint, the petitioners have received an amount of Rs.51,50,000/- from the second respondent on the pretext that they will supply paddy to him. Despite several requests, the petitioners did not return the money or supplied the paddy. The petitioners have received the money from the second respondent with an intention to cheat him.

4. The learned counsel for the petitioners submitted that the lis involved between the parties is purely civil in nature and there is no element of criminality. It is further submitted that there is no iota of evidence.

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. 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. Whether the lis involved between the petitioners and second respondent is civil in nature or not will come to light during the course of investigation.

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 Gurajat**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, Tirupathi East Police Station, is hereby directed to follow the procedure as contemplated under Section 41A Cr.P.C., in Crime No.87 of 2017 so far as the petitioners-A1 to A3 are 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: 06.06.2017
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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