

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.4509 OF 2017

ORDER:

1 This petition is filed under Section 482 Cr.P.C to quash the proceedings against the petitioners/Accused No.1 to 5 in Cr.No.174 of 2017 on the file of Station House Officer, Krishnalanka Police Station, Vijayawada registered for the offences punishable under Sections 420, 506 and 323 r/w 34 of IPC.

2 The learned counsel for the petitioners submitted that the first respondent foisted a false case against the petitioners. 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, therefore, it is a fit case to quash the proceedings against the petitioners.

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

3 A perusal of the record reveals that the petitioners are accused No.1 to 5 and the first respondent is the de-facto complainant. It is the case of the first respondent that he is owner of the lorry bearing No.AP 16 TX 7999. As per the allegations made in the complaint, the first accused had taken away the lorry of the first respondent. It is further alleged that the petitioner Nos.2 to 5, in collusion with the first petitioner, have cheated the first respondent. It is further alleged that the petitioners threatened the first respondent with dire consequences.

4 Whether the petitioners have committed the alleged offences or not will come to light during the course of investigation only. While disposing of the petition filed under Section 482 Cr.P.C, the Court has to take into consideration the allegations made in the complaint. The Court is not justified in embarking upon an enquiry to ascertain the truthfulness or otherwise of the allegations made in the complaint. The very purpose of investigation is to ascertain the truthfulness or otherwise of the allegations made in the complaint. The allegations made in the complaint are prima facie sufficient to investigate into the matter.

5 Having regard to the facts and circumstances of the case on hand and also the principle laid down 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 this is not a fit case to quash the proceedings at this stage.

6 The learned counsel for the petitioners submitted that the Station House Officer, Krishnalanka Police Station, Vijayawada, may be directed not to arrest the petitioners pending investigation in the crime.

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, Krishnalanka Police Station, Vijayawada, is hereby directed to

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

follow the procedure as contemplated under Section 41A Cr.P.C., in Cr.No.174 of 2017 so far as the petitioners/accused Nos.1 to 5 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: 16th June, 2017
Kvsn

