

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

CRIMINAL PETITION No.4090 of 2017

ORDER:

This petition is filed under Section 482 Cr.P.C. to quash the proceedings in Crime No.456 of 2017 on the file of the Station House Officer, Uppal Police Station, registered for the offences punishable under Sections 420 and 406 IPC and Sections 7 and 8 of Essential Commodities Act.

2. The predominant contention of the learned counsel for the petitioner is that the second respondent has no locus standi to lodge the complaint. The learned Assistant Public Prosecutor submitted that the second respondent being the Civil Supplies Officer is competent person to lodge the complaint.

3. A perusal of the record reveals that the petitioner is accused No.2 and the second respondent is the *de facto* complainant in Crime No.456 of 2017. As per the allegations made in the complaint, the petitioner herein has been running the fair price shop as if he is D.Deva. A perusal of the record further reveals that there is variation of stock at the time of inspection.

4. 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 been running the fair price shop in the name of D.Deva or not is purely a disputed question of fact. 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.

5. 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.

6. 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, Uppal Police Station, is hereby directed to follow the procedure as contemplated under Section 41-A Cr.P.C. in Crime No.456 of 2017 so far as the petitioner/ accused No.2 is concerned.

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

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

T. SUNIL CHOWDARY, J

Date: 08.06.2017
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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) SCALE 250