

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

WRIT PETITION No.17558 of 2017

ORDER:

1 This petition is filed under Article 226 of the Constitution of India seeking to quash the proceedings against the petitioners/A.1, A.4, A.5 and A.7 in Cr.No.83 of 2017 on the file of Station House Officer, Shabad Police Station, Cyberabad registered for the offences punishable under Sections 3 (1) (s) (Za) of S.C / ST (PoA) Act, 2015 and Sections 3(1) (R) (A)(C) (D) of S.C / ST (PoA) Act, 2015.

2 Heard the learned counsel for the petitioners and the learned Assistant Government Pleader for Home for the State of Telangana.

3 A perusal of the record reveals that the petitioners are accused Nos.1, 4, 5 and 7 and third respondent is de-facto complainant in Cr.No.83 of 2017. As per the allegations made in the complaint on 22.04.2017 the petitioners herein directed the third respondent and others, who belong to Schedule Caste community, not to enter into the newly constructed temple in the village. It is further alleged that the petitioners herein stopped supply of electricity and water to the colony of the third respondent. The gist of the allegations made in the complaint is that the petitioners herein along with others insulted the third respondent and others in the name of their caste and stopped civic amenities to their colony.

4 The learned counsel for the petitioners submitted that due to political rivalry in the village, the third respondent foisted a false case.

The learned Assistant Government Pleader submitted that the allegations made in the complaint are prima facie sufficient to investigate into the matter.

5 A perusal of the record reveals that accused Nos.2, 3, 5, 6 and 8 in the case were arrested and produced before the concerned Court for judicial custody. While deciding the petition filed under Article 226 of the Constitution of India 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.

6 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 Punjab¹**, **State of Haryana v. Bhajan Lal²**, **V.Y.Jose v State of Gurajat³** and **Teeja Devi v State of Rajasthan⁴**, I am of the considered view that this is not a fit case to quash the proceedings at this stage.

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

¹ AIR 1960 SC 866

² AIR 1992 SC 604

³ (2009) 3 SCC 78

⁴ 2015 (1) ACR 564 (SC)

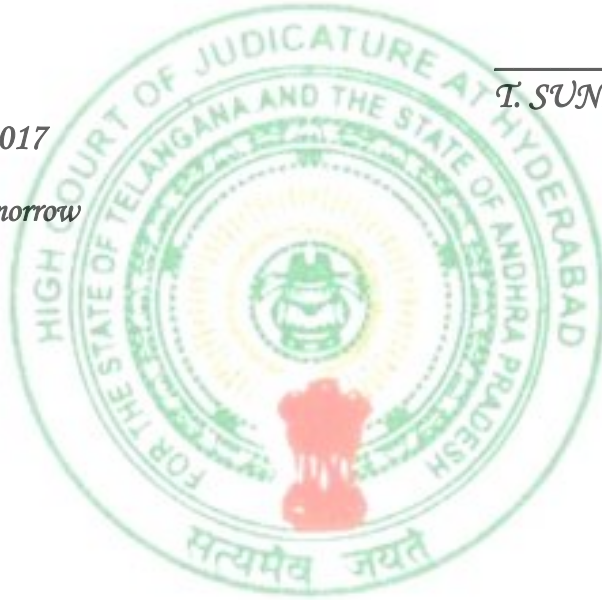
8 Taking into consideration the nature of allegations made in the complaint and in view of the principle enunciated by the Hon'ble apex Court in **Arnesh Kumar v State of Bihar**⁵, the Station House Officer, Shabad Police Station, Hyderabad is hereby directed to follow the procedure as contemplated under Section 41 A of Cr.P.C., in Cr.No.83 of 2017 so far as the petitioners/A.1, A.4, A.5 and A.7 are concerned.

9 With the above observations and direction, this Writ Petition is disposed of. As a sequel, miscellaneous petitions, pending if any in this Writ Petition, shall stand closed.

Date: 7th June, 2017

*C.C. Day after tomorrow
B/o Kvsn*

T. SUNIL CHOWDARY, J



⁵ 2014(8) SCALE 250