

THE HON' BLE SRI JUSTICE T. SUNIL CHOWDARY

CRIMINAL PETITION No.4282 of 2017

ORDER:

This petition is filed under Section 482 Cr.P.C. to quash the proceedings against the petitioner/ accused No.2 in Crime No.79 of 2017 on the file of the Station House Officer, Prohibition & Excise Police Station, Chittoor Urban, Chittoor District, registered under Section 37(a) of the A.P.Excise Act.

2. Learned counsel for the petitioner submitted that the allegations made in the complaint do not constitute any offence much less the offence alleged to have been committed by the petitioner. Per contra, learned Assistant Public Prosecutor submitted that the allegations made in the complaint *prima facie* sufficient to investigate into the matter. He further submitted that this is not the stage to go into the merits of the main case.

3. A perusal of the record reveals that the petitioner is accused No.2. A perusal of the record reveals that on 17.03.2017 the excise officials visited the shop in question at about 9.30 p.m. and seized the toddy. It is further alleged that the petitioner herein along with accused No.1 has been selling the adulterated toddy to the customers. It is not in dispute that the petitioner is the licence holder of toddy shop.

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 is selling the adulterated toddy 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.

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, Prohibition and Excise Police Station, Chittoor Urban, Chittoor District, is hereby directed to follow the procedure as contemplated under Section 41-A Cr.P.C. in Crime No.79 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: 13.06.2017
Fns

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