

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

WRIT PETITION No.22229 of 2017

ORDER:

This petition is filed under Article 226 of the Constitution of India seeking to quash the proceedings against the petitioner-accused in Crime No.18 of 2017 on the file of Station House Officer, Kondapuram Police Station, Nellore District, registered for the offences punishable under Sections 509 and 506 of IPC and Sections 3(1)(r)(s), w(ii) and 3(2)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 2015.

2. The learned counsel for the petitioner strenuously submitted that the petitioner was in Sri Chaitanya College, Nellore, while discharging his duty as a Junior Lecturer (Mathematics), on 31.3.2017, at the time of the alleged incident. He further submitted that the fourth respondent foisted a false case against the petitioner due to civil disputes. He also submitted that the allegations made in the complaint do not constitute any offence much less the offences alleged to have been committed by the petitioner. ***Per contra***, the learned Assistant Government Pleader for Home submitted that the allegations made in the complaint, prima facie, constitute the offences alleged to have been committed by the petitioner.

3 A perusal of the record reveals that the petitioner is the sole accused and the fourth respondent is the *de-facto* complainant in Crime No.18 of 2017. As per the allegations made in the complaint, on 31.3.2017, when the fourth respondent was proceeding from her house to the school at Gottigundala village, on the way, the petitioner asked her to satisfy his sexual lust. It is further alleged that the petitioner has been harassing the fourth respondent as she belongs

to a scheduled caste. It is also alleged that the petitioner threatened the fourth respondent with dire consequences.

4. 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. Whether the petitioner was in Sri Chaitanya College, Nellore at the time of the alleged incident or not will come to light during the course of investigation. 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 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.

6. The learned counsel for the petitioner submitted that the Station House Officer, Kondapuram Police Station, may be directed to follow the procedure as contemplated under Section 41-A of Cr.P.C.

¹ AIR 1960 SC 866

² AIR 1992 SC 604

³ (2009) 3 SCC 78

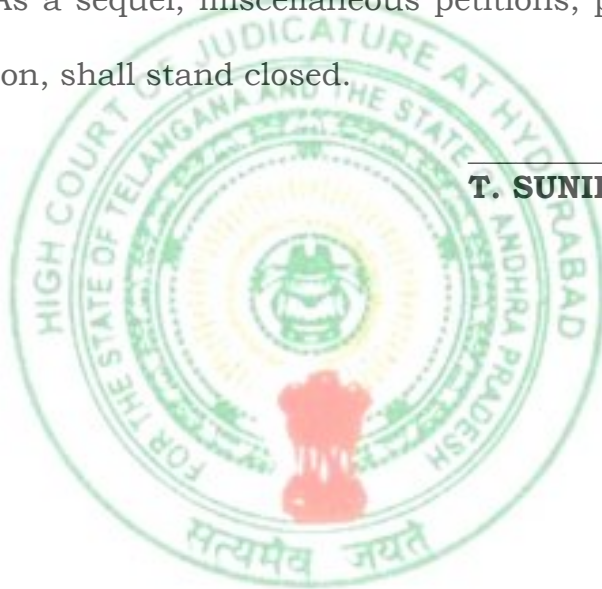
⁴ 2015 (1) ACR 564 (SC)

7. 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, Kondapuram Police Station, is hereby directed to follow the procedure as contemplated under Section 41 A of Cr.P.C., in Crime No.18 of 2017 so far as the petitioner-accused is concerned.

8. 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.

July 07, 2017
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T. SUNIL CHOWDARY, J



⁵ 2014(8) SCALE 250