

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.4860 OF 2017

ORDER:

1 This petition is filed under Section 482 Cr.P.C to quash the proceedings against the petitioner/A.2 in Cr.No.39 of 2017 on the file of Station House Officer, Lingasamudram Police Station, registered for the offences punishable under Sections 170 and 506 r/w 34 of IPC.

2 The learned counsel for the petitioner submitted that the petitioner has nothing to do with the alleged offence. He further submitted that even if the allegations made in the complaint are *ex facie* taken to be true and correct, no case is made out against the petitioner.

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

4 A perusal of the record reveals that the petitioner is accused No.2 and the second respondent is the *de-facto* complainant. As per the allegations made in the complaint, on the intervening night of 02/03.06.2017 the petitioner along with accused No.1 came to the house of the second respondent and asked her to come to the Police Station. It is further alleged that the petitioner threatened the second respondent with dire consequences.

5 Whether the petitioner has 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.

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 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.

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

8 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, Lingasamudram Police Station, is hereby directed to follow the procedure as contemplated under Section 41A Cr.P.C., in Cr.No.39 of 2017 in so far as the petitioner/A.2 is concerned.

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

9 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: 27th June, 2017
Kvsn

