

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.5275 of 2017

ORDER:

This petition is filed under Section 482 Cr.P.C., to quash the proceedings against the petitioners-accused Nos.1 to 6 in Crime No.287 of 2017 on the file of the Station House Officer, Mancherial Police Station, registered for the offences under Sections 420, 447, 427 and 506 read with 34 of IPC.

2. Learned counsel for the petitioners submitted that due to civil disputes, the second respondent foisted a false case against the petitioners. He further submitted that the allegations made in the complaint do not constitute any offence much less the offences alleged to have been committed by the petitioners. ***Per contra***, learned Assistant Public Prosecutor submitted that the allegations made in the complaint are *prima facie* sufficient to investigate into the matter.

3. A perusal of the record reveals that the petitioners are accused Nos.1 to 6 and the second respondent is the *de facto* complainant. As per the allegations made in the complaint, on 08.6.2017 the petitioners trespassed into the land of the second respondent in survey No.199 admeasuring Acs.15.18 guntas and survey No.204 admeasuring Acs.2.16 guntas situated at Mancherial and removed the fencing polls in the land. It is further alleged that the cheques issued by the petitioners were dishonoured for want of sufficient funds. It is also alleged that the petitioners threatened the second respondent with dire consequences. The gist of the allegations made in the complaint is

that the petitioners trespassed into the land of the second respondent, removed the fencing polls, threatened him with dire consequences and also cheated him.

4. While deciding the petitions 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 second respondent has foisted the false case against the petitioners or not will come in 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, Mancherial Police Station, is hereby directed to follow the

¹ AIR 1960 SC 866

² AIR 1992 SC 604

³ (2009) 3 SCC 78

⁴ 2015 (1) ACR 564 (SC)

⁵ 5 (2014) 8 SCC 273

procedure as contemplated under Section 41A Cr.P.C., in Crime No.287 of 2017 so far as the petitioners-accused Nos.1 to 6 are concerned.

7. With the above direction, the criminal petition is disposed of. Miscellaneous petitions, if any pending in the criminal petition, shall stand closed.

T.SUNIL CHOWDARY, J

July 06, 2017.

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