

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.5862 OF 2017

ORDER:

This petition is filed under Section 482 Cr.P.C. to quash the proceedings against the petitioner/sole accused in Crime No.91 of 2017 on the file of the Station House Officer, Bellampalli Town Police Station, Ramagundam District, registered for the offence punishable under Section 420 IPC.

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* constitute the offence alleged to have been committed by the petitioner.

3. A perusal of the record reveals that the petitioner is the sole accused and the 2nd respondent is the *de facto* complainant in Cr.No.91 of 2017. As per the allegations made in the complaint, on 10-11-2016 the petitioner made a false promise that he will provide a job to the 2nd respondent. Believing the false promise of the petitioner, the 2nd respondent paid an amount of Rs.25,000/-. The petitioner neither provided the job nor returned the money. The gist of the allegations made in the complaint is that the petitioner cheated the 2nd respondent by making false promise.

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 has committed the alleged offence 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, Bellampally Town Police Station, Ramagundam District, is hereby directed to follow the procedure as contemplated under Section 41-A Cr.P.C. in Crime No.91 of 2017 so far as the petitioner/sole accused is concerned.

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

T.SUNIL CHOWDARY, J

DATED:19-07-2017

Hsd

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