

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.5781 of 2017

ORDER:

This petition is filed under Section 482 Cr.P.C. to quash the proceedings against the petitioner/accused No.11 in Crime No.1020 of 2016 on the file of the Station House Officer, Banjara Hills Police Station, Hyderabad, registered for the offences under Sections 420, 468 and 471 read with 34 IPC.

2. Learned counsel for the petitioner submitted that the lis involved between the parties is purely civil in nature without any element of criminality. He further submitted that even if the allegations made in the complaint *ex facie* taken to be true and correct, no *prima facie* case is made out against the petitioner for the offences alleged to have been committed by him, therefore, it is a fit case to quash the proceedings against him. ***Per contra***, learned Assistant Public Prosecutor for the State of Telangana submitted that the allegations made in the complaint and remand report *prima facie* constitute the offences alleged to have been committed by the petitioner.

3. A perusal of the record reveals that the petitioner is accused No.11 and the second respondent is the *de facto* complainant. As per the allegations made in the complaint, the petitioner herein along with other accused with an

intention to grab the land in Survey No.129/30 TS No.22, Block-K, Ward No.12, Road No.12 of Banjara Hills created and forged the documents with the help and assistance of Accused Nos.3 to 8. It is further alleged that the house numbers were created in the name of accused Nos.3 to 8, who are not the residents of Hyderabad city. The gist of the allegations made in the complaint is that the petitioner herein forged the documents to cheat the *de facto* complainant.

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 Gujarat**³ and **Teeja Devi v. State of**

¹ AIR 1960 SC 866

² AIR 1992 SC 604

³ (2009) 3 SCC 78

Rajasthan⁴, 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, Banjara Hills Police Station, Hyderabad City, is hereby directed to follow the procedure as contemplated under Section 41-A Cr.P.C. in Crime No.1020 of 2016, so far as the petitioner/A11 is concerned.

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

Date: 17.07.2017
Rns

T.SUNIL CHOWDARY, J

⁴ 2015 (1) ACR 564 (SC)

⁵ (2014) 8 SCC 273

