

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.5342 of 2017

ORDER:

This petition is filed under Section 482 Cr.P.C. to quash the proceedings against the petitioner/accused No.2 in Crime No.182 of 2017 on the file of the Station House Officer, Gadwal Town Police Station, Mahaboob Nagar District, registered for the offence punishable under Sections 420 IPC and under Section 3(I) and 10 of Money Lending Act.

2. Learned counsel for the petitioner submitted that the petitioner has nothing to do with the alleged offence. He further 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 for the State of Telangana 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 accused No.2 and the second respondent is the *de facto* complainant. As per the allegations made in the complaint, the petitioner has been carrying on money lending business illegally. It is further alleged that the petitioner herein along with accused No.1 obtained empty promissory notes and cheques from the public and thereby cheating them. The gist

of the allegations made in the complaint is that the petitioner herein along with accused No.1 cheating the public by running money lending business illegally.

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 Punjab¹**, **State of Haryana v. Bhajan Lal²**, **V.Y.Jose v. State of Gujarat³** and **Teeja Devi v. State of 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

¹ AIR 1960 SC 866

² AIR 1992 SC 604

³ (2009) 3 SCC 78

⁴ 2015 (1) ACR 564 (SC)

Court in **Arnesh Kumar v State of Bihar**⁵, the Station House Officer, Gadwal Town Police Station, Mahaboob Nagar District, is hereby directed to follow the procedure as contemplated under Section 41-A Cr.P.C. in Crime No.182 of 2017 so far as the petitioner/accused No.2 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: 07.07.2017
Rns

T.SUNIL CHOWDARY, J



⁵ (2014) 8 SCC 273