

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.5037 OF 2017

ORDER:

1 This petition is filed under Section 482 Cr.P.C to quash the proceedings against the petitioners/Accused Nos.1 to 3 in Cr.No.24 of 2017 on the file of Station House Officer, Ponnalur Police Station, registered for the offences punishable under Sections 324, 323 and 509 of IPC and Sections 3 (1) (r) (s), 3(2) (va) of S.C & S.T. Prevention of Atrocities Act.

2 The learned counsel for the petitioners submitted that in order to overcome case in Cr.No.23 of 2017, 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.

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

4 A perusal of the record reveals that the petitioners are accused Nos.1 to 3 and the second respondent is the *de-facto* complainant. As per the allegations made in the complaint, basing on the complaint lodged by the daughter of the first petitioner, the Station House Officer Ponnalur police station registered a case in Cr.No.23 of 2017 against the second respondent and others for the offences punishable under Sections 354-D and 323 r/w 34 of IPC

and Section 12 of POCSO Act, 2012. The petitioners and the second respondent belong to the same village.

5 As per the allegations made in the complaint, on 30.04.2017, the petitioners herein entered into the house of the second respondent and beat them. It is further alleged that the petitioners herein insulted and abused the second respondent in the name of his caste. It is further alleged ;that the petitioners threatened the second respondent with dire consequences.

6 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. Whether the petitioners have committed the alleged offences or not will come to light during the course of investigation only. 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.

7 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 Punjab¹**, **State of Haryana v. Bhajan Lal²**, **V.Y.Jose v State of Gurajat³** and **Teeja Devi v State of Rajasthan⁴**, I am of the considered view that this is not a fit case to quash the proceedings at this stage.

¹ AIR 1960 SC 866

² AIR 1992 SC 604

³ (2009) 3 SCC 78

⁴ 2015 (1) ACR 564 (SC)

8 Having regard to 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, Ponnalur Police Station is hereby directed to follow the procedure as contemplated under Section 41A Cr.P.C., in Cr.No.24 of 2017 so far as the petitioners who are accused Nos.1 to 3 are concerned.

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

Date: 30th June, 2017
Kvsn

T. SUNIL CHOWDARY, J



⁵ (2014) 8 SCC 273