

THE HON' BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.4400 of 2017

ORDER:

This petition is filed under Section 482 Cr.P.C. to quash the proceedings against the petitioners/ accused Nos.5 to 7 in Crime No.261 of 2016 on the file of the Station House Officer, Tanuku Town Police Station, registered under Sections 196, 420, 468, 469 and 471 IPC read with 34 IPC.

2. Learned counsel for the petitioners submitted that the second respondent has no right whatsoever to lodge the complaint in view of pendency of O.S.No.19 of 2015 on the file of the Junior Civil Judge Court, Tanuku. He further submitted that the allegations made in the complaint *prima facie* do not constitute the offence 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 herein are A5 to A7 and the second respondent is the *de facto* complainant. A perusal of the record reveals that the first petitioner filed O.S.No.19 of 2015 on the file of the Junior Civil Judge Court, Tanuku, against accused No.1 and second respondent for declaration that she is the legally wedded wife of accused No.1. The second respondent herein filed FCOP No.333 of 2015 against A1 for declaration and restitution of conjugal rights. As per

the allegations made in the complaint, the petitioners herein along with other accused fabricated the documents as if she is the first wife of A1. It is further alleged that the first petitioner and A1 cheated her. The entire controversy revolves around as to who is the first wife of A1. The various queries raised by the learned counsel for the petitioners involve complexity of disputed questions of fact, which cannot be gone into at this stage.

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 petitioners have 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.

¹ AIR 1960 SC 866

² AIR 1992 SC 604

³ (2009) 3 SCC 78

⁴ 2015 (1) ACR 564 (SC)

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, Tanuku Town Police Station, is hereby directed to follow the procedure as contemplated under Section 41-A Cr.P.C. in Crime No.261 of 2016 so far as the petitioners/ accused Nos.5 to 7 are 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:15.06.2017
Rns

T. SUNIL CHOWDARY, J

⁵ 2014 (8) SCALE 250