

THE HON' BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.4096 of 2017

ORDER:

This petition is filed under Section 482 Cr.P.C. to quash the proceedings in Crime No.1035 of 2017 on the file of the Station House Officer, Rajendranagar Police Station, Ranga Reddy District, registered for the offences punishable under Sections 341, 448, 427 and 506 IPC.

2. Heard the learned counsel for the petitioners and the learned Assistant Public Prosecutor for the State of Telangana.

3. Learned counsel for the petitioners submitted that due to civil disputes between the parties, the second respondent foisted a false case against the petitioners. He further submitted that even if the allegations made in the complaint are taken to be true and correct, no case is made out against the petitioners. He further submitted that the first petitioner was in the hospital as on the date of alleged incident and the second petitioner was also not present as on that date. Per contra, the learned Assistant Public Prosecutor submitted that the allegations made in the complaint *prima facie* constitute the offence alleged to have been committed by the petitioners-accused.

4. A perusal of the record reveals that the petitioners are accused Nos.1 and 2 and the second respondent is the *de facto* complainant in Crime No.1035 of 2017.

5. A perusal of the record reveals that civil and criminal cases are pending between the parties. The second respondent is the tenant of the first petitioner. As per the allegations made in the complaint, the petitioners herein had trespassed into the restaurant of the complainant and threatened him with dire consequences.

6. 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 are present or not as on the date of alleged incident is purely a disputed question of fact, which requires 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.

7. 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)

8. 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, Rajendranagar Police Station, Ranga Reddy District, is hereby directed to follow the procedure as contemplated under Section 41-A Cr.P.C. in Crime No.1035 of 2017 so far as the petitioners/ accused Nos.1 and 2 are concerned.

9. With the above direction, the Criminal Petition is disposed of.

10. Consequently, Miscellaneous Petitions, if any, pending in this Criminal Petition shall stand closed.

Date: 08.06.2017
Fns

T.SUNIL CHOWDARY, J

⁵ 2014 (8) SCALE 250