

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.5982 OF 2017

ORDER:

This petition is filed under Section 482 Cr.P.C. to quash the proceedings against the petitioner/Accused No.1 in Crime No.291 of 2016 on the file of the Station House Officer, Inthezargunj Police Station, Warangal District, registered for the offences punishable under Sections 447 and 427 IPC.

2. Learned counsel for the petitioner strenuously submitted that the petitioner herein lodged a complaint before the concerned Station House Officer on 21-05-2015 against the 1st respondent and others and during pendency of investigation, 1st respondent lodged the present false complaint. He further submitted that there is a delay in lodging the complaint and that itself falsifies the case of the 1st respondent. 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 petitioner; therefore, it is a fit case to quash the proceedings. ***Per contra***, learned Assistant Public Prosecutor submitted that mere delay in lodging the complaint by itself is not a sole ground to quash the proceedings. He further submitted that the allegations made in the complaint *prima facie* constitute the offences alleged to have been committed by the petitioner.

3. A perusal of the record reveals that the petitioner is A1 and the 1st respondent is the *de facto* complainant in Cr.No.291 of 2016. As per the allegations made in the complaint on 25-04-2017, the 1st respondent found that the basement was dismantled in plot no.140. It is further alleged that he came to know that the followers of

the petitioner dismantled the basement. A perusal of the record reveals that both parties are at loggerheads.

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 offences 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.

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, Inthezargunj Police Station, Warangal District, is hereby directed to follow the procedure as contemplated under Section 41-A Cr.P.C. in Crime No.291 of 2016 so far as the petitioner/A1 is concerned.

¹ AIR 1960 SC 866

² AIR 1992 SC 604

³ (2009) 3 SCC 78

⁴ 2015 (1) ACR 564 (SC)

⁵ (2014) 8 SCC 273

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

T.SUNIL CHOWDARY, J

DATED: 21-07-2017
Hsd

