

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.5113 of 2017

ORDER:

This petition is filed under Section 482 Cr.P.C. to quash the proceedings against the petitioners/accused Nos.1,2 and 4 in Crime No.236 of 2016 on the file of the Station House Officer, Old Guntur Police Station, Guntur District, registered for the offence punishable under Sections 420, 341 and 506 read with 34 IPC.

2. Learned counsel for the petitioners submitted that the allegations made in the complaint bereft of basic ingredients of Sections 420, 341 and 506 IPC. He further submitted that the second respondent foisted a false case against the petitioners. ***Per contra***, learned Public Prosecutor for the State of Andhra Pradesh submitted that the allegations made in the complaint *prima facie* constitute the offence alleged to have been committed by the petitioners.

3. A perusal of the record reveals that the petitioners accused No.1, 2 and 4 and the second respondent is the *de facto* complainant. As per the allegations made in the complaint, the petitioners herein and second respondent contributed money to purchase the property from accused No.3. It is further alleged that the petitioners herein in connivance with accused No.3 obtained a sale deed in favour of the second petitioner/accused No.2. The gist of the

allegations made in the complaint is that the petitioners herein cheated the second respondent and threatened him with dire consequences.

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 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, Old Guntur Police Station, Guntur District, is hereby directed to follow the procedure as contemplated under Section 41-A Cr.P.C. in Crime No.236 of 2016 so far as the petitioners/accused Nos.1, 2 and 4 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: 03.07.2017
Rns

T.SUNIL CHOWDARY, J



⁵ (2014) 8 SCC 273