

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.6128 OF 2017

ORDER:

1 This petition is filed under Section 482 Cr.P.C to quash the proceedings against the petitioners / A.1 and A.2 in Cr.No.350 of 2016 on the file of Station House Officer, Pattabhipuram Police Station, Guntur Urban, registered for the offences punishable under section 420 of IPC.

2 The learned counsel for the petitioner strenuously submitted that the lis, if any, involved between the parties is purely civil in nature, without any element of criminality and hence this is a fit case to quash the proceedings against the petitioners. He further submitted that the challan and invoices alleged to have been issued by the petitioners are fabricated documents.

3 Per *contra*, 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 and 2 and the first respondent is the *de-facto* complainant in Cr.No.350 of 2016.

5 As per the allegations made in the complaint, the first respondent supplied 100 cotton bales to the petitioners under delivery challan dated 02.02.2016 and permanent invoice dated 04.02.2016. The gist of the allegations made in the complaint is

that the petitioners herein purchased cotton bales worth of Rs.17,58,343/- from the first respondent and cheated him.

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.

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 Bihar⁵**, the Station House Officer, Pattabhipuram Police Station, Guntur Urban is hereby directed to follow the procedure as contemplated under Section 41A Cr.P.C.,

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

in Cr.No.350 of 2016 so far as the petitioners / accused Nos.1 and 2 are concerned.

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

T. SUNIL CHOWDARY, J

Date: 25th July, 2017
Kvsn

