

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.5921 of 2017

ORDER:

This petition is filed under Section 482 Cr.P.C. to quash the proceedings against the petitioner/accused No.19 in Crime No.180 of 2017 on the file of the Station House Officer, Mattampally Police Station, registered for the offence punishable under Section 420 I.P.C. and Section 7 of the Essential Commodities Act, 1955.

2. The learned counsel for the petitioner 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.

3. The learned Assistant Public Prosecutor submitted that the allegations made in the complaint constitute the offences alleged to have been committed by the petitioner.

4. A perusal of the record reveals that the petitioner is accused No.19 and the second respondent is the *de-facto* complainant in Crime No.180 of 2017. It further reveals that the petitioner is the fair price shop dealer of Tilaknagar Colony, Huzurnagar.

5. As per the allegations made in the complaint, accused Nos.1 and 2 used to purchase PDS rice from the fair price shop dealers. It is further alleged that the petitioner herein along with the other fair price shop dealers diverting the PDS rice to black market. The gist of the allegations made in the complaint is that the petitioner herein indulged in black marketing by diverting the PDS rice.

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 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.

7. 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.

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 Bihar⁵**, the Station House Officer, Mattampally Police Station, is hereby directed to follow the procedure as contemplated under Section 41A Cr.P.C. in Crime No.180 of 2017 so far as the petitioner/accused No.19 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

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: 20.07.2017
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