

HON' BLE SRI JUSTICE T. SUNIL CHOWDARY

CRIMINAL PETITION No.4496 of 2017

ORDER:

This petition is filed under Section 482 Cr.P.C. to quash the proceedings against the petitioners/ accused Nos.1 and 2 in Crime No.56 of 2017 on the file of the Station House Officer, Ramakrishnapur Police Station, registered under Sections 468, 471, 419, 420 and 506 read with 34 IPC.

2. Learned counsel for the petitioners submitted that the second respondent herein is not one of the partners of M/s. Sri Associates, therefore, it is a fit case to quash the proceedings. He further submitted that the allegations made in the complaint *prima facie* do not constitute any offence, much less the offence alleged to have been committed by the petitioners. Per contra, learned Assistant Public Prosecutor submitted that the allegations made in the complaint *prima facie* sufficient to constitute the offence alleged to have been committed by the petitioners.

3. A perusal of the record reveals that the petitioners are accused Nos.1 and 2 and the second respondent is the *de facto* complainant. A perusal of the record reveals that the petitioners are partners of M/s. Sri Associates. As per the allegations made in the complaint, the second respondent had handed over the trip sheets to the petitioners, who in turn transported the coal and encashed the bills to a tune of Rs.11,76,454/- . The entire case

revolves around the trip sheets alleged to have been handed over by the second respondent to the petitioners herein.

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 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, Ramakrishnapur Police Station, is hereby directed to follow the

¹ AIR 1960 SC 866

² AIR 1992 SC 604

³ (2009) 3 SCC 78

⁴ 2015 (1) ACR 564 (SC)

⁵ 2014 (8) SCALE 250

procedure as contemplated under Section 41-A Cr.P.C. in Crime No.56 of 2017 so far as the petitioners/ accused Nos.1 and 2 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.

T.SUNIL CHOWDARY, J

Date:16.06.2017
Pns

