

THE HON' BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.4350 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.8 of 2017 on the file of the Station House Officer, Brahman Kotkur Police Station, Kurnool District, registered under Sections 341 and 353 read with 34 IPC.

2. Learned counsel for the petitioner submitted that mere conducting dharna by the petitioner with a request not to shift the dead body without payment of compensation by the employer would not attract the provisions of Section 341 and 353 IPC. He further submitted that the allegations made in the complaint do not constitute any offence, therefore, it is a fit case to quash the proceedings against the petitioner. Per contra, learned Assistant Public Prosecutor submitted that the petitioner herein obstructed the police constable from discharging his duties, therefore, it is not a fit case to quash the proceedings.

3. A perusal of the record reveals that the petitioner is A1 and the second respondent is the *de facto* complainant. A perusal of the record reveals that one P.Nagendra @ Yesepu died on 21.01.2017. As per the allegations made in the complaint, the petitioner herein along with others did not allow the second respondent to shift the dead body from the scene of offence to the Government General Hospital, Kurnool for autopsy. It is further

alleged that the petitioner along with others prevented the second respondent from discharging his official duties.

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 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, Brahman Kotkur Police Station, Kurnool District, is hereby directed

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

to follow the procedure as contemplated under Section 41A Cr.P.C. in Crime No.8 of 2017 so far as the petitioner/ accused No.1 is 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:14.06.2017
Pns

