

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.5611 of 2017

ORDER:

This petition is filed under Section 482 Cr.P.C. to quash the proceedings against the petitioner/accused No.2 in Crime No.480 of 2017 on the file of the Station House Officer, Pendurthy Police Station, Visakhapatnam City, registered for the offences punishable under Sections 420, 464, 468 and 471 read with 34 I.P.C.

2. The learned counsel for the petitioner submitted that respondent Nos.2 to 4 have foisted a false case against the petitioner herein and one dead person by name Pendurthy Paidayya – A.1. He further submitted that even if the allegations made in the complaint *ex facie* taken to be true and correct, no *prima facie* case is made out against the petitioner; therefore, it is a fit case to quash the proceedings.

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

4. A perusal of the record reveals that the petitioner is accused No.2 and respondent Nos.2 to 4 are the *de-facto* complainants in Crime No.480 of 2017.

5. As per the allegations made in the complaint, one Pendurthy Paidayya obtained a fake Zeroithi Certificate on 09.06.1993 in respect of an extent of Ac.5.42 cents of land in Survey No.113/11 of Pendurthy Village, Visakhapatnam. It is further alleged that the

petitioner herein taking advantage of the fake Zeroithi Certificate dated 09.06.1993 created sale deeds vide document No.3184814/2016.

6. The contention of the learned counsel for the petitioner is that the said Pendurthi Paidayya died in the year 1987.

7. The entire case revolves around the exact date of death of said Pendurthi Paidayya. 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.

8. 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 Gujarat**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.

¹ AIR 1960 SC 866

² AIR 1992 SC 604

³ (2009) 3 SCC 78

⁴ 2015 (1) ACR 564 (SC)

9. 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, Pendurthy Police Station, Visakhapatnam City, is hereby directed to follow the procedure as contemplated under Section 41A Cr.P.C. in Crime No.480 of 2017 so far as the petitioner/accused No.2 is concerned.

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

Date: 14.07.2017
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T.SUNIL CHOWDARY, J



⁵ (2014) 8 SCC 273