

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.1074 OF 2017

ORDER:

This petition is filed under Section 482 Cr.P.C. to quash the proceedings against the petitioner/accused in Crime No.34 of 2016 on the file of the Station House Officer, Sattenapalli Town Police Station, Guntur District, registered for the offence punishable under Section 304-A IPC.

2. Learned counsel for the petitioner submitted that even if the allegations made in the complaint are *ex facie* taken to be true and correct, no case is made out against the petitioner. He further submitted that the 2nd respondent foisted a false case against the petitioner for the reasons best known to him. ***Per contra***, learned Assistant Public Prosecutor submitted that the allegations made in the complaint are *prima facie* sufficient to investigate into the matter.

3. A perusal of the record reveals that the petitioner is the sole accused and the 2nd respondent is the *de facto* complainant in Cr.No.34 of 2016. As per the allegations made in the complaint, on 09-02-2016 wife of the 2nd respondent visited the hospital of the petitioner due to Dental problem. During the course of treatment, wife of the 2nd respondent fell unconscious due to the injection given by the petitioner. Immediately, she was shifted to the Government General Hospital, Guntur, for treatment, where the duty doctor declared her as dead. The gist of the allegations made in the complaint is that the wife of the 2nd respondent died due to medical negligence on the part of the petitioner.

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 committed medical negligence 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 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 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 BIHAR⁵**, the Station House Officer, Sattenapalli Town Police Station, Guntur, is hereby directed to follow the procedure as contemplated under Section 41A Cr.P.C. in Crime No.34 of 2016 so far as the petitioner/accused is concerned.

7. With the above direction, the Criminal Petition is disposed of. Miscellaneous petitions, if any pending in this petition shall stand closed.

T.SUNIL CHOWDARY, J

DATED: 13-06-2017

Hsd

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