

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

WRIT PETITION No.23062 of 2017

ORDER:

1 This petition is filed under Article 226 of the Constitution of India seeking to quash the proceedings against the petitioner in Cr.No.92 of 2017 on the file of Station House Officer, Kakinada I Town Police Station registered for the offences punishable under Sections 354-D, 506 and 384 of IPC and Section 3 (1) (r) (s) (w), 3 (2) (va) of S.C / ST (PoA) Amendment Act, 2015.

2 The learned counsel for the petitioner submitted that the petitioner expressed his inability to lend an amount of Rs.50,000/- to the brother of the 5th respondent, therefore, the 5th respondent foisted a false case against the petitioner. She further submitted that the allegations made in the complaint do not constitute any offence much less the offences alleged to have been committed by the petitioners.

3 The learned Government Pleader 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 the sole accused and the 5th respondent is the *de facto* complainant in Cr.No.92 of 2017 on the file of Station House Officer, Kakinada I Town Police Station. As per the allegations made in the complaint, the family members of the 5th respondent and the petitioner entered into a compromise on 21.01.2017. It is further alleged that after compromised the petitioner threatened the 5th respondent that he will post photos of the 5th respondent in the internet in order to create an

impression that she developed illicit intimacy. It is further alleged that the petitioners abused and insulted the 5th respondent in the name of her caste.

5 While deciding the petition filed under Article 226 of the Constitution of India the Court has to take into consideration the allegations made in the complaint. The Court is not justified in embarking upon an enquiry to ascertain the truthfulness or otherwise of the allegations made in the complaint. The very purpose of investigation is to ascertain the truthfulness or otherwise of the allegations made in the complaint. Whether the petitioner has committed the alleged offences or not will come to light during the course of investigation. The allegations made in the complaint are prima facie sufficient to investigate into the matter.

6 Having regard to the facts and circumstances of the case on hand and also the principle laid down 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 this is not a fit case to quash the proceedings at this stage.

7 Taking into consideration the nature of allegations made in the complaint and in view of the principle enunciated by the Hon'ble apex Court in **Arnesh Kumar v State of Bihar⁵**, the Station House Officer, Kakinada I Town 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 of Cr.P.C., in Cr.No.92 of 2017.

8 With the above observations and direction, this Writ Petition is disposed of. As a sequel, miscellaneous petitions, pending if any in this Writ Petition, shall stand closed.

T. SUNIL CHOWDARY, J

Date: 19th July, 2017
Kvsn

