

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.4871 of 2017

ORDER:

This petition is filed under Section 482 Cr.P.C. to quash the proceedings against the petitioners/A.1 and A.2 in Crime No.59 of 2016 on the file of the Station House Officer, Harbour Law and Order Police Station, Visakhapatnam City, registered for the offence punishable under Section 20 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act').

2. Learned counsel for the petitioners strenuously submitted that the petitioners were falsely implicated in this case. She 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 petitioners.

3. *Per contra*, learned Public Prosecutor for the State of Andhra Pradesh submitted that the police seized the contraband from the possession of the petitioners. He further submitted that the allegations made in the complaint *prima facie* constitute the offence alleged to have been committed by the petitioners.

4. A perusal of the record reveals that the petitioners are accused Nos.1 and 2. As per the allegations made in the complaint, on 05.12.2016 the petitioners were proceeding to Visakhapatnam from Araku on motorcycle. When they reached Convent Junction, Visakhapatnam, the Sub-Inspector of Police, Harbour Police Station, Visakhapatnam, and other officials caught hold the petitioners. It is further alleged that the Sub-Inspector of Police seized 5 kgs. of ganja from the possession of the petitioners.

It is also alleged that the Sub-Inspector of Police has followed the procedure as contemplated under the NDPS Act while seizing the contraband.

5. 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.

6. Taking into consideration the nature of the offence alleged to have been committed by the petitioners 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 Gujarat³ 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.

7. Accordingly, the Criminal Petition is dismissed.

8. Consequently, Miscellaneous Petitions, if any, pending in this Criminal Petition shall stand closed.

T.SUNIL CHOWDARY, J

Date: 28.06.2017
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¹ AIR 1960 SC 866

² AIR 1992 SC 604

³ (2009) 3 SCC 78

⁴ 2015 (1) ACR 564 (SC)