

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.6083 of 2017

ORDER:

This petition is filed under Section 482 Cr.P.C. to quash the proceedings against the petitioners/accused Nos.1 to 5 in Crime No.32 of 2017 on the file of the Station House Officer, Thondangi Police Station, East Godavari District, registered for the offences punishable under Sections 417, 420, 427 and 506 read with 34 I.P.C.

2. The learned counsel for the petitioners 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. He further submitted that the second respondent foisted a false case with an ulterior motive to harass the petitioners; 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 petitioners.

4. A perusal of the record reveals that the petitioners are accused Nos.1 to 5 and the second respondent is the *de-facto* complainant in Crime No.32 of 2017.

5. As per the allegations made in the complaint, the marriage of the second respondent was fixed with the first petitioner. The betrothal function was performed on 18.08.2016 in the presence of the elders of both sides. It is further alleged that at the time of betrothal function, the parents of the second respondent gave an

amount of Rs.2,50,000/- to the family members of the first petitioner towards dowry. In the month of September, 2016, the first petitioner married one Swapna. The gist of the allegations made in the complaint is that the petitioners herein cheated the second respondent and failed to return the amount of Rs.2,50,000/-.

6. 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 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.

7. 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 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.

8. Taking into consideration the facts and circumstances of the case and also the principle enunciated by the Supreme Court in

¹ AIR 1960 SC 866

² AIR 1992 SC 604

³ (2009) 3 SCC 78

⁴ 2015 (1) ACR 564 (SC)

Arnesh Kumar v. State of Bihar⁵, the Station House Officer, Thondangi Police Station, East Godavari District, is hereby directed to follow the procedure as contemplated under Section 41A Cr.P.C. in Crime No.32 of 2017 so far as the petitioners/accused Nos.1 to 5 are concerned.

9. 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: 25.07.2017
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⁵ (2014) 8 SCC 273