

**THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY**

CRIMINAL PETITION No.5435 of 2017

ORDER:

This petition is filed under Section 482 Cr.P.C., to quash the proceedings against the petitioners-accused Nos.1 and 2 in Crime No.100 of 2017 on the file of the Station House Officer, Tiruchanur Police Station, Tirupathi UPD, registered for the offences under Sections 447, 427, 324, 323 and 506 read with 34 IPC and Section 3(1)(x) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Amendment Act, 2016.

2. Learned counsel for the petitioners submitted that the second respondent is not having any land in survey No.487/1 of Padipet village; in such circumstances, the question of trespassing into the land of the second respondent by the petitioners does not arise. He further submitted that the second respondent foisted a false case against the petitioners under the SC & ST Act in order to grab the land. He also 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. ***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 petitioners are accused Nos.1 and 2 and the second respondent is the *de facto* complainant. It is the case of the second respondent that he has been in possession and enjoyment of the land admeasuring Acs.5.00 in survey No.487/1 of Padepet village from 2010. As per

the allegations made in the complaint, on 24.4.2017, the petitioners trespassed into the land of the second respondent and made an attempt to take away the sand from the land without having any right whatsoever. It is further alleged that when the second respondent intervened, the petitioners bet him and threatened him with dire consequences, and insulted him by abusing in the name of his caste.

4. While deciding the petitions 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 second respondent has foisted a false case or not will come in 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 Punjab**<sup>1</sup>, **State of Haryana v. Bhajan Lal**<sup>2</sup>, **V.Y.Jose v. State of Gurajat**<sup>3</sup> and **Teeja Devi v. State of Rajasthan**<sup>4</sup>, 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

---

<sup>1</sup> AIR 1960 SC 866

<sup>2</sup> AIR 1992 SC 604

<sup>3</sup> (2009) 3 SCC 78

<sup>4</sup> 2015 (1) ACR 564 (SC)

**Arnesh Kumar v. State of Bihar**<sup>5</sup>, the Station House Officer, Tiruchanur Police Station, Tirupathi UPD, is hereby directed to follow the procedure as contemplated under Section 41A Cr.P.C., in Crime No.100 of 2017 so far as the petitioners-accused Nos.1 and 2 are concerned.

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

**T.SUNIL CHOWDARY, J**

July 10, 2017.  
YS



---

<sup>5</sup> 5 (2014) 8 SCC 273