

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.4859 OF 2017

ORDER:

1 This petition is filed under Section 482 Cr.P.C to quash the proceedings against the petitioner in Cr.No.137 of 2017 on the file of Station House Officer, Ibrahimpatnam Police Station, registered for the offences punishable under Section 435 of IPC.

2 The learned counsel for the petitioner submitted that in order to escape from the clutches of law, the second respondent foisted a false case against the petitioner. He further submitted that the second respondent is not having land in Eliminedu village, therefore, it is a fit case to quash the proceedings against the petitioner.

3 The learned Assistant Public Prosecutor representing the State of Telangana submitted that the allegations made in the complaint prima facie constitute the offence alleged to have been committed by the petitioner.

3 A perusal of the record reveals that the petitioner is the sole accused and the second respondent is the *de-facto* complainant. A perusal of the record further reveals that basing on the complaint lodged by the petitioner, the Station House Officer, Ibrahimpatnam Police Station registered a case against the second respondent in Cr.No.136 of 2017 for the offence punishable under Section 307 of IPC. A perusal of the record further reveals that the alleged incident took place on 18.03.2017 at about 1.20 or 1.30 AM.

4 It is a case and counter case. As per the allegations made in the complaint, on 18.03.2017 the petitioner poured kerosene on the fence in the land of the second respondent and set fire, thereby caused damage to the crop.

5 Whether the second respondent is having land in Eliminedu village or not and whether the petitioner has committed the alleged offences or not will come to light during the course of investigation only. While disposing of the petition filed under Section 482 Cr.P.C, 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. 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 The learned counsel for the petitioner submitted that the Station House Officer, Ibrahimpatnam Police Station may be directed not to arrest the petitioners pending investigation in the crime.

¹ AIR 1960 SC 866

² AIR 1992 SC 604

³ (2009) 3 SCC 78

⁴ 2015 (1) ACR 564 (SC)

8 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 Bihar**⁵, the Station House Officer, Ibrahimpatnam Police Station, is hereby directed to follow the procedure as contemplated under Section 41A Cr.P.C., in Cr.No.137 of 2017.

9 With the above direction, the Criminal Petition is disposed of. Consequently, Miscellaneous Petitions, if any, pending in this Criminal Petition shall stand closed.

Date: 27th June, 2017
Kvsn

T. SUNIL CHOWDARY, J



⁵ (2014) 8 SCC 273