

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.4477 of 2017

ORDER:

This petition is filed under Section 482 Cr.P.C. to quash the proceedings against the petitioners/accused Nos.3 and 4 in Crime No.165 of 2017 on the file of the Station House Officer, Mills Colony Police Station, Warangal City, registered for the offences punishable under Sections 447 and 427 read with 34 of IPC.

2. The learned counsel for the petitioners submitted that the petitioners owned an extent of Ac.0.11.69 guntas of land in survey No.313 situated at Fort Warangal. He further submitted that taking advantage of existence of graveyard abutting to the land of petitioners, the second respondent foisted a false case against the petitioners. He also submitted that the allegations made in the complaint do not constitute any offence much less the offence alleged to have been committed by the petitioners. The learned Assistant Public Prosecutor submitted that the allegations made in the complaint *prima facie* constitute the offence alleged to have been committed by the petitioners.

3. A perusal of the record reveals that the petitioners are accused Nos.3 and 4 and the second respondent is *de facto* complainant in Crime No.165 of 2017. As per the allegations made in the complaint, on 21.5.2017 at about 11.30 a.m., the petitioners entered into the graveyard and removed the bore-well. It is further alleged that the petitioners cut the trees in the graveyard and demolished the tombs.

4. 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.

5. Having regard to the facts and circumstances of the case and also the principle enunciated in **R.P.Kapoor v. State of Punjab**¹, **State of Haryana v. Bhajan Lal**², **V.Y.Jose v. State of Gurajat**³ and **Teeja Devi v. State of Rajasthan**⁴, 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 **Arnesh Kumar v. State of Bihar**⁵, the Station House Officer, Mills Colony Police Station, Warangal City, is hereby directed to follow the procedure as contemplated under Section 41A Cr.P.C., in Crime No.165 of 2017 so far as the petitioners/accused Nos.3 and 4 are concerned.

¹ AIR 1960 SC 866

² AIR 1992 SC 604

³ (2009) 3 SCC 78

⁴ 2015 (1) ACR 564 (SC)

⁵ (2014) 8 SCC 273

7. 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.

June 16, 2017.

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