

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.6119 of 2017

ORDER:

This petition is filed under Section 482 Cr.P.C., to quash the proceedings against the petitioner-accused in Crime No.275 of 2017 on the file of the Station House Officer, Panjagutta Police Station, registered for the offences punishable under Sections 406 and 420 of IPC.

2. The learned counsel for the petitioner submitted that the allegations made in the complaint do not constitute any offence much less the offences alleged to have been committed by the petitioner; therefore, it is a fit case to quash the proceedings against the petitioner. He further submitted that the second respondent foisted a false case against the petitioner for the reasons best known to him. ***Per contra***, learned Assistant Public Prosecutor submitted that the allegations made in the complaint *prima facie* constitute the offences 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. As per the allegations made in the complaint, the second respondent paid an amount of Rs.3,46,500/- to the petitioner for processing H-1B visa. For one reason or the other, the second respondent could not get H-1B visa. It is further alleged that the petitioner promised that he will refund certain amount if the second respondent could not get H-1B visa in the lottery. It is also alleged that the petitioner did not repay the amount as promised.

The gist of the allegations is that the petitioner cheated the second respondent.

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 foisted the false case against the petitioner 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 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 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 Bihar⁵**, the Station House Officer, Panjagutta Police Station, is hereby directed to follow the

¹ AIR 1960 SC 866

² AIR 1992 SC 604

³ (2009) 3 SCC 78

⁴ (2014) 15 SCC 221

⁵ (2014) 8 SCC 273

procedure as contemplated under Section 41A Cr.P.C., in Crime No.275 of 2017 so far as the petitioner-accused is 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 25, 2017.
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