

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.5471 OF 2017

ORDER:

This petition is filed under Section 482 Cr.P.C. to quash the proceedings against the petitioners/A1 to A3 in Crime No.105 of 2017 on the file of the Station House Officer, Atmakur Police Station, Kurnool District, registered for the offences punishable under Sections 420, 471 and 506 r/w 34 IPC.

2. Learned counsel for the petitioners submitted that the 2nd respondent foisted a false case against the petitioners even though the family properties were partitioned way back in the year 1981. He further 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 *prima facie* constitute the offences alleged against the petitioners.

3. A perusal of the **record** reveals that the petitioners are A1 to A3 and the 2nd respondent is the *de facto* complainant in Cr.No.105 of 2017. 1st petitioner-A1 and the 2nd respondent are own brothers. As per the allegations made in the complaint, 1st petitioner-A1 created a will deed in the name of his father with an ulterior motive to deprive the legal rights of the 2nd respondent. It is further alleged that the 1st petitioner-A1 taking advantage of the forged will, executed a sale deed in favour of the petitioners 2 and 3-A2 and A3. The entire controversy revolves around the will alleged to have been executed by the father of A1 and the 2nd respondent. The gist of the allegations made in the complaint is that the petitioners have cheated the 2nd respondent and threatened him with dire consequences.

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, Atmakur Police Station, Kurnool District, is hereby directed to follow the procedure as contemplated under Section 41-A Cr.P.C. in Crime No.105 of 2017 so far as the petitioners/A1 to A3 are concerned.

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

T.SUNIL CHOWDARY, J

DATED:11-07-2017
Hsd

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