

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

WRIT PETITION No.18983 of 2017

ORDER:

This petition is filed under Article 226 of the Constitution of India seeking to quash the proceedings against the petitioner in Crime No.86 of 2017 on the file of Station House Officer, Kalla Police Station, West Godavari District registered for the offences punishable under Sections 447, 429 and 506 of IPC.

2. The learned counsel for the petitioner submitted that the fifth respondent foisted a false case against the petitioner due to family disputes. He further submitted that if really the prawn crop of the fifth respondent was damaged, he ought to have approached respondent Nos.3 and 4. He also submitted that the fifth respondent foisted this false case against the petitioner for the reasons best known to him. The learned Assistant Government Pleader for Home 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 fifth respondent is the *de-facto* complainant in Crime No.86 of 2017. The petitioner is none other than the son-in-law of the fifth respondent. As per the allegations made in the complaint, on 04.6.2017 the petitioner trespassed into the aquaculture tanks of the fifth respondent and mixed rat poison in the tanks due to which the total prawns in the tanks died and thereby he incurred loss to the tune of Rs.1.90 crores. It is further alleged that the petitioner threatened fifth respondent with dire consequences.

4. The contention of learned counsel for the petitioner is that the petitioner filed a petition seeking dissolution of marriage between him and the daughter of the fifth respondent. Various contentions raised by the learned counsel for the petitioner involves complexity of disputed questions of fact, which cannot be gone into while deciding the petitions under Article 226 of the Constitution of India.

5. While deciding the petition filed under Article 226 of the Constitution of India 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. Whether the petitioner has committed the offences alleged or not will come to light during the course of investigation. 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 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 this is not a fit case to quash the proceedings at this stage.

¹ AIR 1960 SC 866

² AIR 1992 SC 604

³ (2009) 3 SCC 78

⁴ 2015 (1) ACR 564 (SC)

7. The learned counsel for the petitioner submitted that the Station House Officer, Kalla Police Station, West Godavari District may be directed not to arrest the petitioner pending investigation in the crime.

8. Taking into consideration the nature of allegations made in the complaint and in view of the principle enunciated by the Hon'ble apex Court in **Arnesh Kumar v State of Bihar**⁵, the Station House Officer, Kalla Police Station, West Godavari District is hereby directed to follow the procedure as contemplated under Section 41 A of Cr.P.C., in Crime No.86 of 2017 so far as the petitioner/accused is concerned.

9. With the above observations and direction, this Writ Petition is disposed of. As a sequel, miscellaneous petitions, pending if any in this Writ Petition, shall stand closed.

T. SUNIL CHOWDARY, J

Date: 13th June, 2017
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⁵ 2014(8) SCALE 250