

HON' BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.4527 of 2017

ORDER:

This petition is filed under Section 482 Cr.P.C. to quash the proceedings against the petitioners/ accused Nos.1 to 7 in Crime No.215 of 2017 on the file of the Station House Officer, Paloncha Town Police Station, registered under Sections 420 and 406 read with 149 IPC.

2. Learned counsel for the petitioners submitted that the allegations made in the complaint are bereft of the ingredients of Sections 420 and 406 read with 149 IPC. He further submitted that the second respondent foisted a false case against the petitioners for the reasons best known to him. Therefore, it is a fit case to quash the proceedings. Per contra, 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.1 to 7 and the second respondent is the *de facto* complainant. First petitioner is none other than the wife of the second respondent. Petitioners No.2, 3 and 4 are family members of the first petitioner. Petitioners No.5, 6 and 7 are the witnesses to the agreement dated 09.11.2016. As per the allegations made in the complaint, the petitioners 1 to 4 have taken an amount of Rs.6.00 lakhs from the second respondent agreeing to withdraw the

cases pending between them. It is further alleged that after taking money from the second respondent, the petitioners failed to withdraw the cases with an ulterior motive to cheat the second respondent. The gist of the allegations made in the complaint is that the petitioners herein cheated the second respondent.

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 offence 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

¹ AIR 1960 SC 866

² AIR 1992 SC 604

³ (2009) 3 SCC 78

⁴ 2015 (1) ACR 564 (SC)

Arnesh Kumar v. State of Bihar⁵, the Station House Officer, Paloncha Police Station, is hereby directed to follow the procedure as contemplated under Section 41-A Cr.P.C. in Crime No.215 of 2017 so far as the petitioners/ accused Nos.1 to 7 are concerned.

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

Date:19.06.2017

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⁵ 2014 (8) SCALE 250