

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

WRIT PETITION No.18798 of 2017

ORDER:

1 This petition is filed under Article 226 of the Constitution of India seeking to quash the proceedings against the petitioner in Cr.No.36 of 2017 on the file of Station House Officer, S.Rayavaram Police Station, Visakhapatnam District registered for the offences punishable under Sections 323 of IPC and Section 3 (1) (r) (s) of Schedule Castes and Scheduled Tribes (Prevention of Atrocities) Act.

2 The learned counsel for the petitioner submitted that due to political rivalry, the third respondent foisted a false case against the petitioner. He further submitted that the allegations made in the complaint do not constitute any offences much less the offences alleged to have been committed by the petitioner.

3 The learned Assistant Government Pleader submitted that the allegations made in the complaint, prima facie, constitute the offences alleged to have been committed by the petitioner.

4 A perusal of the record reveals that the petitioner is the sole accused and the 3rd respondent is the *de-facto* complainant in Cr.No.36 of 2017. As per the allegations made in the complaint, on 13.03.2017 the petitioner abused and insulted the 3rd respondent – de-facto complainant in the name of his caste. It is further alleged that the petitioner beat the third respondent.

5 A perusal of the record further reveals that basing on the complaint lodged by the petitioner herein, the Station House Officer, S.Rayavaram Police Station registered a case in Cr.No.35 of 2017 under Sections 353 and 354 r/w 34 of IPC against the third

respondent and others. The record further reveals that some galata took place between the petitioner and the third respondent on that day.

6 Whether the petitioner has committed the offences alleged or not will come to light during the course of investigation. 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. The allegations made in the complaint are prima facie sufficient to investigate into the matter.

7 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 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 this is not a fit case to quash the proceedings at this stage.

8 The learned counsel for the petitioner submitted that the Station House Officer, S.Rayavaram Police Station, may be directed not to arrest the petitioner pending investigation in the crime.

¹ AIR 1960 SC 866

² AIR 1992 SC 604

³ (2009) 3 SCC 78

⁴ 2015 (1) ACR 564 (SC)

9 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, S.Rayavaram Police Station, is hereby directed to follow the procedure as contemplated under Section 41 A of Cr.P.C., in Cr.No.36 of 2017 so far as the petitioner/accused is concerned.

10 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.

Date: 16th June, 2017
Kvsn

T. SUNIL CHOWDARY, J



⁵ 2014(8) SCALE 250