

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

WRIT PETITION No.20279 of 2017

ORDER:

1. This writ petition is filed under Article 226 of the Constitution of India to quash FIR in Crime No.109 of 2017 on the file of the Station House Officer, Abids Police Station, Hyderabad, registered under Sections 468, 471 and 420 read with 34 IPC.

2. Learned counsel for the petitioners strenuously submitted that the lis involved between the parties is purely civil in nature without any element of criminality. He further submitted that the petitioner Nos.1 and 3 have nothing to do with the alleged offence. He further submitted that the allegations made in the complaint do not constitute the offence much less the offence alleged to have been committed by the petitioners. Learned Assistant Government Pleader 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 petitioners are accused Nos.1 to 3 and the third respondent is the *de facto* complainant. As per the allegations made in the complaint, the petitioners herein created rental agreement dated 20.01.2017 with an ulterior motive to cause financial loss to the second respondent. The gist of the allegations made in the complaint is that the petitioners herein cheated the third respondent. A perusal of the record reveals that the second petitioner herein filed O.S.No.688 of 2017 on the file of the XX Junior Civil Judge, City Civil Court, Hyderabad, against the

third respondent for perpetual injunction in respect of a shop bearing municipal No.5-8-517/28.

4. 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 petitioners have fabricated the rental agreement dated 20.01.2017 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.

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 Gujarat³** 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, Abids Police Station, Hyderabad, is hereby directed to follow the

¹ AIR 1960 SC 866

² AIR 1992 SC 604

³ (2009) 3 SCC 78

⁴ 2015 (1) ACR 564 (SC)

⁵ 2014 (8) SCALE 250

procedure as contemplated under Section 41-A Cr.P.C., in Crime No.109 of 2017.

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:23.06.2017

Rns

