

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.6572 of 2016

ORDER:

This petition is filed under Section 482 Cr.P.C. to quash the proceedings against the petitioners/accused No.1 to 6 in Crime No.33 of 2015 on the file of the Station House Officer, RGI Airport Police Station, Cyberabad, registered for the offences punishable under Sections 447, 427 and 506 IPC and Section 25 of Indian Arms Act.

2. The petitioners are accused Nos.1 to 6 and respondent Nos.2 to 4 are *de facto* complainants in Crime No.33 of 2015.

3. The petitioner No.1, who is an Advocate by profession, appeared in person and also made submissions on behalf of petitioner Nos.2 to 6/accused Nos.2 to 6. He submitted that respondent Nos.2 to 4-*de facto* complainants have no land in survey No.204 of Shamshabad Village. He further submitted that the respondent Nos.2 to 4 foisted this false case against the petitioners in order to overcome laches on their part in the civil suit. The learned counsel for the respondent Nos.2 to 4 submitted that second respondent is having an extent of Acs.0.27 guntas in survey No.204 of Shamshabad Village. The learned Assistant Public Prosecutor submitted that the allegations made in the complaint *prima facie* constitute the offences alleged to have been committed by the petitioners.

4. A perusal of the record reveals that civil and criminal cases are pending between the parties. As per the allegations made in the complaint, the petitioners trespassed into the land of respondent

Nos.2 to 4, which is an extent of Acs.0.27 guntas in survey No.204 of Shamshabad Village, and threatened them with dire consequences. The contentions raised by both the parties involve complexity of disputed questions of fact, which cannot be gone into while exercising jurisdiction under Section 482 of Cr.P.C.

5. 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 trespassed into the land of respondent Nos.2 to 4 and threatened them with dire consequences 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.

6. 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.

7. 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, RGI Airport Police Station, Cyberabad, is hereby directed to follow the procedure as contemplated under Section 41A Cr.P.C., in Crime No.33 of 2015 so far as the petitioners/accused Nos.1 to 6 are concerned.

8. 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: 14.06.2017
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⁵ (2014) 8 SCC 273