

THE HON' BLE SRI JUSTICE CHALLA KODANDA RAM

CRIMINAL PETITION No.3386 of 2019

ORDER:

Heard learned counsel for the petitioners, and the learned Public Prosecutor representing the 2nd respondent-State.

It is the allegation of the petitioners that false case have been foisted against them in Crime No.652 of 2018 for the offences punishable under Sections 447, 427 and 506 r/w 34 IPC., and as a matter of fact, the petitioners are representing the land owners who have purchased the same under an agreement of sale, and took possession on 05.05.2008. As the police were interfering with the civil dispute, a writ petition i.e., W.P.No.47753 of 2018 came to be filed wherein specifically the Station House Officer, and also the Assistant Commissioner of Police have also been made party-respondents. It is the assertion of the learned counsel for the petitioners that it is only on account of the filing of the writ petition, false cases have been foisted and that petitioner Nos.2 and 3 have been arrested and, therefore, the question of absconding of the petitioners does not arise.

While deciding a petition under Section 482 Cr.P.C., 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 at the initial stage of the 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.

Having regard to the facts and circumstances of the case and also the principles enunciated by the Supreme Court in R.P.Kapoor v. State of

Punjab¹ and State of Haryana v. Bhajanlal², I am of the view that it is not a fit case to quash the proceedings at the initial stage of the investigation.

Learned counsel for the petitioners submitted that the concerned Station House Officer may be directed not to arrest the petitioner till completion of the investigation.

In view of the judgment of the Hon' ble Supreme Court in Arnesh Kumar v. State of Bihar and another³, the Station House Officer, Bachupally P.S., Cyberabad Police Station, is hereby directed to follow the procedure contemplated under Section 41-A Cr.P.C. in Crime No.652 of 2018.

Accordingly, the criminal petition is disposed of. No costs. Miscellaneous petitions, if any pending, shall stand closed.

JUSTICE CHALLA KODANDA RAM

28th June, 2019

KSM

¹ AIR 1960 SC 866

² AIR 1992 SC 604

³ 2014 (8) SCALE 250

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