

THE HON'BLE JUSTICE G.SRI DEVI
CRIMINAL PETITION No.7785 of 2019

ORDER:

This Criminal Petition is filed by the petitioner-A1 under Section 482 Cr.P.C. seeking to quash the proceedings in crime No.294 of 2019 on the file of the SHO, Godavarikhani-I Town Police Station, Peddapalli District, registered for the offences punishable under Sections 420, 376 (2) (n), 354 C, 323 and 506 r/w 34 IPC.

2. Heard the learned counsel for the petitioner and learned Additional Public Prosecutor appearing for the State.

3. Learned counsel for the petitioner submits that even if the allegations made in the FIR/complaint are taken at their face value and accepted in their entirety, do not make out *prima facie* case against the petitioner. The allegations made in the FIR do not constitute a cognizable offence, but constitute only a non-cognizable offence and no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155 (2) Cr.P.C.. He further submits that the 1st respondent/complainant filed the present complaint with false and frivolous allegations and hence, the present F.I.R. in Cr.No.294 of 2019 is liable to be quashed.

4. Learned Additional Public Prosecutor opposed the prayer for quashing of the F.I.R. and submits that the contents of the F.I.R. clearly disclose cognizable offence and that the F.I.R., in the present case, lodged by the 1st respondent/complainant cannot be quashed.

5. After considering the various decisions including the decision of **STATE OF HARYANA V BHAJAN LAL** ¹, I am of the view that there can be no interference with the investigation or order staying arrest of the petitioner unless cognizable offence is not *ex-facie* discernable from the allegations contained in the F.I.R. or there is any statutory restriction operating on the power of the police to investigate a case. From a perusal of the F.I.R., *prima facie*, it cannot be said that no cognizable offence is made out. Hence, no ground exists for quashing of the F.I.R. or staying arrest of the petitioner.

6. Accordingly, this Criminal Petition is dismissed. As a sequel, miscellaneous petitions, if any, shall stand closed.

JUSTICE G.SRI DEVI

DATED: 02.12.2019

Hsd

¹ 1992 SCC (CRL.) 426

