

THE HON'BLE DR.JUSTICE CHILLAKUR SUMALATHA

CRIMINAL PETITION No.3433 of 2022

ORDER:

Heard the submission of the learned counsel for the petitioners as well as the learned counsel appearing for the second respondent.

2 Seeking to quash the proceedings that are pending against the petitioners who are arrayed as accused Nos.1 and 2 in Crime No.196 of 2022 of Medipally police station, the present criminal petition is filed.

3 Learned counsel for the petitioners submits that the petitioners have not committed any offences and the second respondent is in the habit of foisting false cases and the present case is one of such cases and therefore the proceedings have to be quashed.

4 *Per contra*, learned counsel for the second respondent contended that the petitioners have committed the offence of cheating and they have not only cheated but also threatened the second respondent and therefore the proceedings initiated have to be continued.

5 On that learned counsel for the petitioners submitted that no further orders are required except to protect the petitioners from arbitrary arrest.

6 Learned Assistant Public Prosecutor as well as the learned counsel for the second respondent did not raise any serious objection for grant of such relief.

7 Thus, having regard to the facts and circumstances of the case, this Court considers it desirable to dispose of this criminal petition with the following directions:

- (1) The Station House Officer, Medipally Police Station, shall not effect arrest of the petitioners/Accused Nos.1 and 2 without following the procedure established by law.
- (2) The Station House Officer, Medipally Police Station/Investigating Officer shall adhere to the requirement to follow Section 41-A Cr.P.C except under the circumstances mentioned under Section 41(1) Cr.P.C and Section 41-A (4) Cr.P.C.
- (3) The guidelines issued by the Hon'ble Apex Court in Arnesh Kumar Vs. State of Bihar ((2014) 8 SCC 273) shall be followed.
- (4) The Station House Officer/Investigating Officer shall not insist upon the personal appearance of the petitioners/Accused Nos.1 and 2 during the course of investigation, except where their personal appearance is required.
- (5) In case the personal appearance of the petitioners/Accused Nos. 1 and 2 is required, the same shall be communicated to them in writing indicating the reasons for which their personal appearance is sought.
- (6) However, it is made clear that the Investigation may go on.

(7) That the petitioners/Accused Nos.1 and 2 shall cooperate with the police during the process of investigation.

8 As a sequel, miscellaneous petitions pending, if any, shall stand closed.

Dr. JUSTICE CHILLAKUR SUMALATHA

Dt: 21.7.2022
C.C. by tomorrow
B/o Kvsn