

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY
CRIMINAL PETITION No.6348 OF 2011

ORDER:

1 This petition is filed under Section 482 Cr.P.C to quash the proceedings against the petitioners/A.4 and A.5 in Cr.No.98 of 2011 on the file of Kuppam Police Station, registered for the offences punishable under Sections 420, 498-A, 494 and 313 r/w 34 of IPC and Section 3 (i) (x) of S.C. & S.T. (Prevention of Atrocities) Act, 1989.

2 The learned counsel for the petitioners strenuously submitted that no allegations are made against the petitioners in the complaint.

3 *Per contra*, the learned Public Prosecutor submitted that major portion of investigation has been completed.

4 This Court, while exercising inherent jurisdiction under Section 482 Cr.P.C, can quash the F.I.R. in the following circumstances:

(1) if the allegations made in the complaint do not constitute any offence much less the offence alleges to have been committed by the petitioner;

(2) even if the allegations made in the complaint ex facie taken to be true and correct, there is no possibility of conviction of the petitioner;

(3) if the registration of the case against the petitioner is prohibited by any law for the time being in force; or

(4) if the registration of crime and continuation of investigation would amount to misuse of process of law; and

(5) to meet the ends of justice.

5 The first respondent is the de-facto complainant. As per the allegations made in the complaint, A.1 in the case married the first petitioner herein during subsistence of valid marriage with the first respondent herein. As per the allegations made in the complaint, the petitioners herein and others cheated the first respondent.

6 The Court is not justified in embarking upon an enquiry to

ascertain the truthfulness or otherwise of the allegations made in the complaint. While disposing of the petition filed under Section 482 Cr.P.C, the Court has to take into consideration 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. The allegations made in the complaint are *prima facie* sufficient to investigate into the matter.

7 Having regard to the facts and circumstances of the case on hand and also the principle laid down in **R.P.Kapoor v. State of Punjab** [1] and **State of Haryana v. Bhajan Lal** [2], I am of the view that this is not a fit case to quash the proceedings at this stage.

8 The learned counsel for the petitioners submitted that the Station House Officer, Kuppam Police Station may be directed not to arrest the petitioners pending investigation in the crime.

9 A perusal of the record reveals that on 01.08.2011 this Court granted interim stay of all further proceedings in Cr.No.98 of 2011 and the same has been in force till today. In view of the interim orders granted earlier by this Court and also in view of the principle laid down by the Hon'ble apex Court in **Arnesh Kumar v State of Bihar** [3], I am inclined to direct the Station House Officer, Kuppam Police Station, not to arrest the petitioners, who are accused Nos.4 and 5 in Cr.No.98 of 2011 on his file, without following the procedure contemplated under Section 41 A of Cr.P.C.

10 Accordingly, this criminal petition is dismissed. As a sequel, the miscellaneous petitions, pending if any, shall stand closed.

T. SUNIL CHOWDARY, J.

Date: 28.08.2014.

Kvsn

[1] AIR 1960 SC 866

[2] AIR 1992 SC 604

[3] 2014(8) SCALE 250