

THE HON'BLE SRI JUSTICE A.V. SESA SAI

WRIT PETITION No.33972 of 2012

ORDER:

This writ petition is filed under Article 226 of the Constitution of India seeking the following relief:

“to issue writ of Mandamus to declare the action of the respondents not to conduct enquiry against the 3rd respondent, as illegal and arbitrary and consequently direct the respondents 1 and 2 to conduct enquiry and to take all legal steps according to law, pending disposal of the writ petition and pass such other order or orders as this Hon'ble Court may deem fit and proper in the interest of justice.”

Heard Sri P. Pravin Kumar, learned counsel for the petitioners and learned Government Pleader for Home for respondents, apart from perusing the material available before this Court.

Today, when the matter is called, written instructions, dated 15-09-2015 furnished by the Sub-Inspector of Police, L.B. Nagar Police Station, Cyberabad Commissionerate have been placed on record by the learned Government Pleader for Home and the said instructions read as under:

“One Smt.Kandagatla Ansuya, W/o.Subash (1st petitioner herein) had approached the Police of LB Nagar Police Station, Cyberabad Commissionerate and lodged a complaint on 13.05.2010 stating that one Mr.M.Venugopal (3rd respondent herein) and others came to her house and forcibly taken four blank cheques duly signed with Nos.366709, 366710, 366711, 366712 from Mr.Kandatala Gopinath (2nd petitioner herein) drawn at State Bank of India, Prashanthnagar, Uppal and after that they threatened Mr.Subash (1st petitioner herein) that if he tells this matter to anybody then they would file cases against both of them and they would see the end of Mr.Subash and his family members and also threatened Mr.Subash to come whenever they called and lastly they left them. Again on 17.4.2010, Mr.Venugopal (3rd respondent herein) made a call to her husband Mr.Subash and threatened him to accompany him and that her husband went to Canara Bank, Hayathnagar Branch, whereat Mr.Venugopal and his associates requested the Bank Manager to return the original sale deed of Mr.Subash and that the Manager of the said Bank asked Mr.Subash to come on 19.4.2010 and again on 19.4.2010 Mr.Venugopal and other persons called her husband Mr.Subash and got

released the tile deed from the bank and again they got signed on blank papers by threatening her husband with dire consequences. On 11.5.2010 Mr.Venugopal and his associates called her husband and they kept her husband in their custody in an unknown place upto 13.5.2010. Due to the missing of her husband, she lodged a complaint in PS LB Nagar on 13.5.2010 and that the Police of LB Nagar apprehended the above named culprits and rescued her husband from their custody. After releasing from their custody, the above said culprits came to her house and threatened Mr.Subash with dire consequences by showing deadly weapons and forced him to pay the amount assuring him that they would hand over all the papers which were duly signed by her husband etc facts. Hence, she requested the police to take necessary action as per law.

Basing on the contents of the above complaint, a case in Cr.No.591/2010 U/secs.384, 506 IPC was registered on the file of LB Nagar Police Station, Cyberabad Commissionerate on 13.5.2010 and taken up the investigation.

During the course of investigation, the investigating officer examined the complainant-wife of the 1st petitioner herein and recorded her detailed statement on 13.05.2010.

While the investigation was under progress, on the same day i.e., 13.05.2010 the complainant along with her husband-1st petitioner herein had approached the investigating officer and submitted a petition stating that they got money transactions with the alleged accused Mr.Venugopal (3rd respondent herein) and with a fear that her husband will register their house, she made complaint, but the registration was not done and also her husband returned at about 2.00 p.m and she requested the investigating agency to drop further course of action into the case. However, the investigating officer recorded the statement of the 1st petitioner herein and he too stated that they got money transactions with Venugopal and his wife made complaint in a hasty manner and hence requested the police to drop further course of action.

In view of the statements of the complainant and as well as her husband (1st petitioner herein), then investigating officer sent a proposals to the Asst.Commissioner of Police, LB Nagar Division requesting him to accord permission to refer the said complaint as "Mistake of Fact". Accordingly, after obtaining permission from the concerned officer, thereafter, the final report was also filed before the Hon'ble Court of II Addl.Metropolitan Magistrate at L.B.Nagar, Cyberabad.

A copy of the final report is filed along with this written instruction for the kind perusal of this Hon'ble Court.

It is pertinent to submit that almost all the averments made in the affidavit filed in support of the writ petition are the subject matter of

investigation into the Cr.No.591/2010 and as per the request of the complainant, the said case was referred as "Mistake of Fact" and to that effect, final report was also filed into the Hon'ble Court."

On noticing the above said instructions, learned counsel for the petitioners has requested this Court to record the said instructions and dispose of the writ petition and with a further liberty to the petitioners herein to avail the remedies available to them under Code of Criminal Procedure.

In view of the above, the writ petition stands disposed of, by recording the written instructions, dated 15-09-2015 furnished by the Sub-Inspector of Police, L.B. Nagar Police Station, Cyberabad Commissionerate and with a liberty to the petitioners herein to avail the remedies available to them under Code of Criminal Procedure.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. There shall be no order as to costs.

A.V. SESA SAI, J

November 06, 2015

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