

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

W.P.No.19751 of 2015

ORDER:

The petitioner and the 8th respondent are the husband and wife respectively. The 8th respondent filed DVC.No.409 of 2012, on the file of the IV Metropolitan Magistrate, Hyderabad, along with CrI.M.P.No.1575 of 2012 seeking directions against the petitioner to give temporary custody of the children. On 14.05.2015, the learned Magistrate passed orders, as under:

“7. In the light of the above understandings arrived at between both parties and in the light of the undertaking given by the petitioner and her mother to the effect as stated supra, the present petition is disposed off giving temporary custody of the two children to petitioner for two days in a week and the 1st respondent is directed to drop the two children namely Baby Ayesha Siddiqua @ Noorein Fatima and Master Syed Aabdul Azi, at the house of the petitioner on every Saturday at about 5 pm from her house, till the disposal of the main case. The above said orders shall come into force w.e.f. 23/5/2015. Both the parties are informed that the trial of the main case will be taken up in expeditious manner as per the directions of the Hon'ble High Court. Therefore, they are directed to co-operative with its trial.”

2. It is stated in the writ affidavit that in terms of the above orders the 7th respondent gave an undertaking also and after receiving the said undertaking, the learned Magistrate directed the petitioner herein to drop the two children at the house of the 8th respondent on every Saturday at 10 AM and collect them on the next day ie., Sunday at about 5 PM from the house of the 8th respondent till the disposal of the main DVC. It is further stated that in obedience of the orders passed by the learned Magistrate, petitioner herein personally took the two children to the residence of the 7th and 8th respondents and on the next day at

31.05.2015, at about 5-30 PM, he went to the house of the 7th respondent and found the door locked and on enquiry from the neighbours, he came to know that the respondents 7 and 8 left the house at 2 PM itself on 31.05.2015 by locking the door. Immediately, thereafter, according to the petitioner, he went to the 6th respondent Station House Officer, Mailardevpally Police Station, Mailardevpally, Ranga Reddy District with a complaint that the children were kidnapped and wrongly confined in an unknown address. According to the petitioner, the 6th respondent refused to receive the complaint, which prompted the petitioner to send the complaint by registered post. It is also the case of the petitioner herein that the 8th respondent is suffering from mental adjustment disorder and the 7th respondent is anaemically disposed against the petitioner and both of them want to deprive fatherly love and affection of the petitioner towards the children. It is further stated that as the respondents 5 and 6 refused to receive the complaints, he sent another complaint on 04.06.2015 to the respondents 3, 4 and 6 by Registered Post Acknowledgement Due.

3. In the above background, the present writ petition has been filed by the petitioner herein alleging inaction on the part of the official respondents in registering the complaint.

4. When the matter is called today, learned Government Pleader for Home has placed on record the written instructions dated 10.08.2015 submitted by the Sub-Inspector of Police, Mailardevpally Police Station, Hyderabad. The said instructions read as under:

“It is respectfully submitted that the petitioner herein submitted that representation to the 6th respondent police i.e SHO Mailardevpally Police Station, Cyberabad commissioner ate through the registered post. Basing on the complaint the petitioner was summoned to the Police Station, along with him the Sub Inspector of Police PS Mailardevpally visited the house of 7th respondent/Smt Bibi Fathima, situated at Kings Colony, Shashripuram within the jurisdiction of the 6th respondent.

It is further submitted that the neighbors of the 7th respondent stated that the children and their mother are not in the above said locality. And the relatives of the 8th respondent stated that the children are safe with their mother, they are presently in Bidar district of Karnataka State.

It is further submitted that the issue pertaining to the violations of orders passed by the Hon'ble family court by the 7th and 8th respondents. The 7th and 8th respondents intentionally and deliberately violated the orders passed by the Hon'ble family court. Therefore the petitioner is advised to obtain appropriate orders from the Hon'ble family court for return of children, as the petitioner handed over the children to 7th and 8th respondents as per the family court orders.

It is further submitted that the respondent police is no way concerned with regard to this matter, hence the allegations made against the respondent police are false and base less."

5. In the present writ petition, the grievance precisely of the petitioner is the inaction of the respondent police authorities in taking action on the complaints said to have been made by the petitioner herein. While referring to the contention of the learned Government Pleader that it is open for the petitioner herein to approach the Court where DVC.No.409 of 2012 is pending consideration, it is submitted by the learned counsel for the petitioner that Section 31 of the Protection of Women from Domestic Violence Act, 2005 stipulates that the respondent is punishable, but not the petitioner in the DVC. While contending so, it is submitted by the learned counsel for the petitioner herein that the petitioner herein has no other alternative except to approach this Court for redressal of his grievance. This Court is of the opinion that the petitioner herein cannot be made remediless for redressal of his grievance.

6. In view of the above reasons and having regard to the nature of controversy, writ petition is disposed of, directing the respondent authorities to register a case basing on the complaints dated 31.05.2015, 01.06.2015 and 04.06.2015 said to have been lodged by the petitioner herein and take action in accordance with law. As a sequel, pending miscellaneous petitions, if any, shall stand closed. No costs.

A.V.SESHA SAI, J

Date:31.08.2015
grk

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

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W.P.No.19751 of 2015

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Dated 31st August, 2015

grk

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD FOR THE
STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH THE HON'BLE SRI JUSTICE A.V.SESHA SAI**

W.P.No.19751 of 2015

Between:

Syed Younus s/o Syed Qamar,
Aged 33 yeas, Private employee,
R/o H.No.10-5-39/A/1, First Lancer,
Syed Nagar, Hyderabad.

... Petitioner

And

State of Telangana, represented by its
Principal Secretary, Home Department,
Secretariat, Hyderabad and others.

....Respondents

JUDGMENT PRONOUNCED ON: 31st August, 2015

THE HONOURABLE SRI JUSTICE A.V.SESHA SAI

1. Whether Reporters of Local Newspapers
May be allowed to see the Judgment?

Yes/No

2. Whether the copies of judgment may be
Marked to Law Reporters/Journals?

Yes/No

3. Whether Their Lordship wish to see the
Fair copy of the judgment?

Yes/No