

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

WRIT PETITION No.24032 of 2015

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 2 to 5 in not registering the FIR against the persons mentioned in petitioner application dated 10-6-2015 and not arresting the persons mentioned in the petitioner application dated 10-6-2015 as illegal, arbitrary and unjust and consequential directions to the respondents 2 to 5 to take immediate steps for registering of FIR and arrest of the persons mentioned in petitioner complaint dated 10-6-2015 on the file of 5th respondent forthwith.”

Heard Sri Karunakar Reddy, learned counsel for the petitioner 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 06-08-2015 furnished by the Station House Officer, Khammam Rural Police Station have been placed on record by the learned Government Pleader for Home and the said instructions read as under:

“On a complaint of Mr.Gantala Suresh lodged with the Police of Rural Police Station Khammam, a case in Cr.No.420/2014 U/sec.174 Cr.P.C (suspicious death) was registered on 22.9.2014 as his elder brother by name Mr.Gantala Venkateswarlu (husband of the petitioner herein) was died under suspicious circumstances.

During the course of investigation, the investigating officer examined the complainant Mr.Gantala Suresh (brother-in-law of the petitioner herein) and other witnesses and recorded their detailed statements.

While the investigation is under progress, again Mr.Gantala Suresh approached this respondent police and, submitted another petition that as per preplan the petitioner (husband of the deceased) and her elder brother Narra Venkataramaiah and their friend SK.John Basha killed Ganta Venkateswalu (husband of the petitioner herein) by offering beer mingled with gulikalu killed his elder brother.

Basing on the second petition of the complainant, altered the Section of Law to 302 r/w 34 IPC from Sec. 174 Cr.P.C and taken up the investigation. Alteration Memo to that effect was also filed before the concerned Hon'ble Court.

The petitioner herein is shown as accused in the FIR.

While the investigation in the above case is under progress, the petitioner herein had submitted a petition dated 10.6.2015 stating that her marriage was performed with her husband Gantala Venkateswarlu and they blessed with two female children and her husband was addicted to liquor and harassing her and in this context, she along^with her children filed DVC No. 13 of 2011 on the file of II Addl. Judl. First Class Magistrate at Khammam against her husband Venkateswarlu, her mother-in-law Gantala Govindamma and her brother-in-law Gantala Suresh. By believing the aforesaid persons, she got it compromised the aforesaid DVC case through Lok Adalat and succeeded in getting award and as per the said award the aforesaid persons as agreed to give house to her and her daughters at Mangalagudem village bounded by East-Road, West-House of B.Narsamim, North-Bathula Uppalaiah and South-Road admeasuring Ac.0.02 gts. Her husband was died recently and taking advantage of the same her mother-in-law and her brother-in-law had taken away the household articles at Gurralapadu village and given the said house for rental purpose to one Avala Ramesh. Her children and herself asked the same the aforesaid persons are abusing them in filthy language and warned them to kill if they gone there by stating that they have no relationship with the said house. Hence, requested the police to take appropriate action against them and get it return the said house in her favour.

Upon receipt of the said petition, immediately an entry was made into the Station General Diary stating that after conducting preliminary enquiry, action will be taken.

In the enquiry, it is revealed that the petitioner is shown as accused in the above case who alleged to have been murdered her husband along with her brother.

On coming to know the alteration of the above case from Sec.174 Cr.P.C to Soc.302 IPC, the petitioner submitted

the above petition to the respondent police for taking action on it. The investigation was completed and appropriate charge sheet was also filed against the petitioner herein and others before the Hon'ble Court of I Addl. Judl. First Class Magistrate at Khammam on 20.12.2014.

I humbly submit that there are no cognizable contents in the petition. I submit that the dispute of the petitioner[^] handing over the house to her from her mother-in-law and her brother-in-law is purely civil in nature. Hence, this respondent police advised her to settle the dispute in a competent court of law.

I humbly submit that if the petitioner makes her mother-in-law and her brother-in-law as proper party respondents to this writ petition, the real facts would have come to light.

It is also pertinent to submit that if there is any violation of the orders passed in the Award by her mother-in-law and her brother-in-law, it is always open for the petitioner to avail alternative remedies.

No action was taken on the complaint dt.10-06-2015 of the petitioner herein since the dispute is purely civil in nature."

On noticing the above said instructions, learned counsel for the petitioner has requested this Court to record the said instructions and grant permission to the petitioner herein to avail other alternative remedies.

In view of the above, the writ petition stands disposed of, by recording the written instructions, dated 06-08-2015 furnished by the Station House Officer, Khammam Rural Police Station with a liberty to the petitioner herein to avail alternative remedies available to her, if so advised.

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

August 17, 2015

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

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