

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

W.P.No.24058 of 2010

ORDER:

This Writ Petition is filed under Article 226 of the Constitution of India, seeking the following relief:

“To issue a writ or order or direction more specifically one in the nature of Writ of Mandamus declaring the inaction of the Respondents 3 and 4 in not proceeding with the investigation in FIR No.98/2010 of the 4th respondent dated 15.5.2010 under Sections 467, 420, 468 and 471 IPC as illegal, arbitrary, contrary to law, violative of Articles 14 and 21 of the Constitution of India and direct the Respondents herein to entrust the investigation, apprehension of the culprits and prosecution as per law to the CBCID of the State of Andhra Pradesh in FIR No.98/2010 dated 15.5.2010”.

2. Heard Sri B.Krishna Mohan, learned counsel for the petitioner and the learned Government Pleader for Home for Respondents, apart from perusing the material available on record.

3. The petitioner herein lodged a complaint with 4th respondent-SHO, Pattabhipuram L & O Police Station, Guntur District and the 4th respondent registered the same as F.I.R.No.98/2010 on 15.5.2010 for the offences punishable under Sections 467, 420, 468 and 471 of IPC. In the complaint lodged by the petitioner herein, he alleged that an unknown person created and released a fake letter purportedly addressed by him to the AICC President leveling charges against 20 Leaders in Guntur District. In the said complaint, the petitioner wanted the police to find out the origin of the said letter and initiate action against the culprits. The grievance precisely in the present Writ Petition is that though the police registered the crime as long back as on 15.5.2010, there is absolutely no progress in the investigation and the same is opposed to very spirit and object of provisions of Section 173 of Cr.P.C.

4. On receipt of rule nisi, a counter affidavit is filed by the

Superintendent of Police, Guntur District stating that the police registered the complaint of the petitioner on 15.5.2010 and in view of gravity of offence, the Superintendent of Police vide Memo dated 17.5.2010 issued instructions to the Inspector of Police, East Circle, Guntur Urban to take up investigation and at present, the said Inspector of Police is conducting investigation of the case. It is also stated in the said counter that during the course of investigation, the Investigating Officer examined five witnesses including the petitioner and recorded their detailed statements and a team of police party was also appointed to collect information about the real culprits. Counter further states that during the course of investigation, the investigating officer seized the material objects namely (1) three original letter head copies which are in three different sizes from the petitioner herein in the presence of mediators (2) the original signed (admitted signature of the petitioner) letter of the petitioner dated 19.4.2010 addressed to the Superintending Engineer, R & B, Guntur and (3) Xerox copy of the letter dated 5.5.2010. It is also stated that the used letter head containing the alleged forged signature of the complainant-petitioner is yet to be traced and seized. It is also stated that the information from all the concerned authorities of the print and electronic media at Guntur and Hyderabad districts have to be collected to trace out the culprits. It is further stated that fair investigation is under progress and the prayer of the petitioner to entrust the investigation of Cr.No.98/2010 to CBCID is not proper and just.

5. The instructions dated 6.11.2014 sent by the Sub-Inspector of Police, Pattabhipuram Police Station, Guntur district are also placed on record by the learned Government Pleader and the said instructions state that used letter head containing the alleged forged signature of the complainant/petitioner is yet to be traced and seized. It is further stated that on 9.8.2010 and 1.3.2011 the Investigating officer sent a letter to the AICC President, requesting to furnish original letter of the petitioner and still no reply is received. It is also stated that investigation so far done from time to time did not yield any fruitful result about the accused

persons responsible for emanating the forged letter to the AICC President. It is also stated in the said instructions dated 6.11.2014 that in the absence of the original letter, it is very difficult for the investigating agency to finalise the case.

6. At this juncture, it may be appropriate to refer to Section 173 of Cr.P.C. A reading of the above provision of law makes it clear that Section 173(1) imposes a statutory obligation on the part of the investigating officer to complete the investigation without unnecessary delay and according to the said provision of law, sincere efforts must be made by the investigating officer to complete the investigation without any law. The object of the said provision of law is that if the investigation is carried out promptly and quickly, it would undoubtedly fetch the required evidence for the purpose of prosecuting the accused properly. Therefore, it is obligatory on the part of the investigating agency to carry out the investigation with reasonable expedition.

7. In the instant case, except saying that investigation is in progress and letters have been addressed to the AICC President, no sincere efforts have obviously been made by the investigating officer. This conduct on the part of the police in keeping the investigation pending for approximately five years is highly unreasonable and iniquitous and cannot be approved in view of mandate under Section 173 of Cr.P.C. By assigning lame and feeble excuses, the investigation cannot be kept pending for eternity.

8. For the aforesaid reasons, taking into consideration the nature of controversy and having regard to the totality of the circumstances, the writ petition is disposed of, directing the respondents herein to complete the investigation in F.I.R.No.98 of 2010 on the file of the Station House Officer, Pattabhipuram Police Station, Guntur District and file a final report within a period of six months from the date of receipt of this order. It is also made clear that if the respondent authorities fail to complete the

investigation within the time stipulated above, the investigation of the case shall be entrusted to the State C.B.C.I.D. As a sequel, the miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.

A.V.SESHA SAI, J

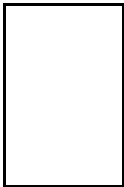
Date: 29.4.2015

Note:

Furnish C.C. in (3) days.

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29.4.2015

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W.P.No.24058 of 2010

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Date: 29.4.2015

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Between:

Rayapati Sambasiva Rao

... Petitioner

and

Government of Andhra Pradesh,
represented by its Principal Secretary,
Home Department, Secretariat,
Hyderabad & others.

... Respondents