

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD  
FOR THE STATE OF TELANGANA & THE STATE OF ANDHRA PRADESH  
(Special Original Jurisdiction)

WEDNESDAY , THE TWENTY NINTH DAY OF APRIL  
TWO THOUSAND AND FIFTEEN  
PRESENT

**THE HON'BLE SRI JUSTICE VILAS V. AFZULPURKAR**

**WRIT PETITION No.6426 of 2015**

**BETWEEN**

Sri Perumal Madhusudhan Rao.

**... PETITIONER**

**AND**

The State of Andhra Pradesh, Rep. by its Principal Secretary, Home Department, A.P.  
Secretariat, Hyderabad and others.

**...RESPONDENTS**

**Counsel for the Petitioner: MR. A.T.M. RANGARAMANUJAN**

**For MR. D. KODANDARAMI REDDY**

**Counsel for the Respondents: GP FOR HOME (AP)**

**GP FOR FORESTS (AP)**

**GP FOR GAD (AP)**

**The Court made the following:**

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**ORDER:**

Petitioner, who is stated to have been implicated in the crimes mentioned in the prayer pending before various police stations in Chittoor District, seeks investigation into the said crimes by the Superintendent of Police, Central Bureau of Investigation or by the Superintendent of Police, Crime Branch, Criminal Investigation Department and seeks a direction to such Investigating Officer to file a report before this Court about enquiry and investigation and requires this Court to monitor the investigation.

2. Petitioner, stated to be a member of a political party, alleges that his enemies in the party are instrumental in instigating the respondent police in implicating him in various offences relating to

red sanders so as to harm his political career. The crimes mentioned in the prayer are also set out in the affidavit and it is alleged that all the said crimes implicate one Ganganapalli Madhu whereas the name of the petitioner is P. Madhusudhan Rao and he is never known by any other name including Madhu by anybody. Petitioner, therefore, asserts that all the FIR's filed against Ganganapalli Madhu are all based on confessions made by the co-accused and without there being any involvement by the petitioner, he is implicated in the said crimes on the ground that the petitioner is also known as Ganganapalli Madhu and is involved in all the said offences. Petitioner, further, asserts that though he was not present at the scene of offence merely on the confessions of some of the co-accused, he is implicated falsely.

3. Petitioner states that, on an apprehension that he would be detained under the Andhra Pradesh Prevention of Dangerous Activities of Bootleggers, Dacoits, Drug Offenders,

Goondas, Immoral Traffic Offenders and Land Grabbers Act, 1986 (for short 'the AP Act 1 of 1986'), he made a representation through his counsel before the third respondent on 04.02.2015 urging him not to invoke the drastic provisions of the AP Act 1 of 1986 against him on the ground that he is falsely implicated. Petitioner also states that he made an appropriate representation before the National Commission for Schedule Castes and Schedule Tribes, as he being a member of Schedule Caste community and as such, he is being harassed by the police for no good reason. Various other allegations connected with the said crimes are made therein that the petitioner is falsely implicated in those cases and his right to lead life as a lawful and peaceful citizen is being affected.

4. When the writ petition came up for admission, after hearing the learned senior counsel for the petitioner, notice to respondents was issued requiring the learned Governments Pleader to get instructions as regards the stage of investigation of the crimes, referred to above.

5. Respondent No.5 filed a counter affidavit denying the specific allegation of the petitioner that he is not called or referred to as Madhu by anybody and it is stated that as per the investigation of respondents 6 to 22, petitioner is called as Ganganapalli Madhu alias Madhu and his original name is not known to many of the persons in Chittoor town as he is familiar by calling as Ganganapalli Madhu and hence, the respondents have registered the crimes against the petitioner by mentioning his name as Ganganapalli Madhu. Petitioner's allegation that he is implicated on the confessions of the co-accused is denied and it is stated that as per the investigation, the petitioner is maintaining a very big gang by giving his name as Ganganapalli Madhu and he is very familiar in and around Chittoor as Ganganapalli Madhu. It is also stated that the investigation shows that the petitioner is involved in many cases of transporting red sanders illegally and he is arrayed as accused in the cases, referred to above.

FIR and investigation in some of the crimes, such as Cr.No.86 of 2014, show that apart from the arrest of the accused, the respondents have seized huge quantity of red sander logs weighing about 2032 Kgs along with Mahindra pick up vehicle and even after efforts made by respondent No.11, the whereabouts of the petitioner were not traceable.

6. The counter affidavit further states that various other crimes are under investigation and some of the accused are yet to be arrested. Brief details of various crimes and investigation

is also mentioned in the counter affidavit. In para 17 it is specifically in Cr.No.72 of 2014 on the file of the Chittoor II Town Police Station, the petitioner himself has filed an application under Section 438 of the Code of Criminal Procedure seeking anticipatory bail describing himself as Ganganapalli Madhu @ P. Madhusudhan Rao, which is the same name under which the present writ petition is filed. It is also stated that in spite of best efforts made by respondents 7 to 22, the petitioner could not be apprehended and has cleverly escaped making the police officers run around various places to apprehend the petitioner. It is stated that petitioner is involved in large scale smuggling activity by maintaining a very big gang consisting of more than 50 persons led by the petitioner and have been damaging the Seshachalam Forest causing great loss to the national economy. It is state that there is no personal motive or grudge for respondents 7 to 22 and other respondents to take against the petitioner, as they are discharging official duties in the interest of State and also to protect the national economy.

7. Learned senior counsel for the petitioner has cited various decisions in support of his contention that it is a fit case whether the crimes are required to be investigated by a superior agency and that the petitioner has been made this request at the initial stage, as is required. Learned senior counsel placed strong reliance upon a decision of the Supreme Court in **R.S. SODHI v. STATE OF U.P.**, which was a writ petition filed under Article 32 of the Constitution of India with respect to an encounter killing wherein the issue that required investigation was whether the encounter was genuine or fake. Learned senior counsel relies upon a portion in para 2 of the said decision, which state that '*... However faithfully the local police may carry out the investigation, the same will lack credibility since the allegations are against them ...*'. In that situation, the Supreme Court directed the investigation to be made over to the CBI to ensure credibility to investigation.

8. Learned senior counsel also relied upon a decision of the Supreme Court in **S.N. SHARMA v. BIPEN KUMAR TIWARI** wherein it is held in para 11 that '*... though the Code of Criminal Procedure gives to the police unfettered power to investigate all cases where they suspect that a cognizable offence has been committed, in appropriate cases an aggrieved person can always seek a remedy by invoking the power of the High Court under Article 226 of the Constitution under which, if the High Court could be convinced that the power of investigation has been exercised by a police officer mala fide, the High Court can always issue a writ of mandamus restraining the police officer from misusing his legal*

*powers ...'* Another decision of the Supreme Court in **H.N. RISHBUD AND INDER SINGH v. THE STATE OF DELHI** wherein it was held that '*... when any breach of the mandatory provisions relating to investigation is brought to the notice of the Court at an early stage of the trial the Court will have to consider the nature and extent of the violation and pass appropriate orders for such reinvestigation as may be called for, wholly or partly ...*'

9. Another decision of the Supreme Court in **ASHOK KUMAR TODI v. KISHWAR JAHAN** is also cited in support of the contention that transfer of investigation is warranted by the observations in the aforesaid judgment that *there is an unholy nexus between the top brass of the police and the father-in-law of the deceased and a fair investigation was doubted*. Lastly, learned senior counsel also relied upon a Constitution Bench decision of the Supreme Court in **STATE OF WEST BENGAL v. COMMITTEE FOR PROTECTION OF DEMOCRATIC RIGHTS** to contend that right to fair and impartial investigation is a fundamental right and the State has a duty to enforce the human rights of a citizen providing for fair and impartial investigation against any person accused of commission of a cognizable offence.

10. I have considered the aforesaid contentions on either side.

11. Evidently, the petitioner is an accused in several crimes relating to transportation of red sanders and the said crimes, which are registered at different police stations, are under different stages of investigation. From the affidavit filed by the petitioner, it is not discernible as to any oblique motive on the part of the respondents/police officers in registering the respective crimes.

Except stating that the petitioner is implicated on the confessions of the co-accused, petitioner is not able to show even *prima facie* that the investigation is not being conducted in a fair and transparent manner by any of the police officers. Apparently, the investigation is at the preliminary stage and petitioner is shown as accused on the basis of the investigation so far conducted in the respective crime.

12. The petitioner's further contention that he has been implicated though the crimes as registered against one Ganganapalli Madhu, *prima facie*, appears to be based upon an attempt to create a defence of showing that the person involved is somebody else whereas

the petitioner is no way connected with the said crimes. From the investigation so far conducted, the respondents state that the petitioner maintains a big gang as Ganganapalli Madhu and that he is involved in various offences as listed. In fact, the respondents have produced a copy of the anticipatory bail obtained by the petitioner in the name of Ganganapalli Madhu, as referred to in the discussion above. Hence, at this stage, I do not find any material to hold that the investigation carried out in the said crimes by the respective investigating officers as *malafide* so as to order transfer of investigation to some other agency.

13. The propositions laid down by the decisions, referred to above, are with reference to the fact situations, which came before the Court in those cases. As stated above, in the present writ petition,

I am unable to see any specific allegation or reason for disabling the respective investigating officers from continuing the investigation and entrusting it to some other agency. As no single compelling reason has been made out by the petitioner, I am unable to accept the request of the petitioner by granting the prayer sought for.

The writ petition is, therefore, clearly misconceived, liable to be dismissed and is accordingly dismissed. As a sequel, the miscellaneous applications, if any, shall stand closed. There shall be no order as to costs.

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VILAS V. AFZULPURKAR, J

April 29, 2015

DSK