

THE HON'BLE SRI JUSTICE SANJAY KUMAR

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WRIT PETITION No.40591 of 2012

ORDER:

This writ petition was filed assailing the action of the police authorities in referring the case before the competent criminal Court without examining the petitioner or his wife, Kanaka Mahalaxmi. A consequential direction was sought to re-investigate Crime No.177 of 2010 or refer it to any other agency for proper investigation.

Crime No.177 of 2010 was registered on the file of Kakinada I Town Police Station under Section 307 I.P.C. The complainant was the petitioner's wife and she alleged that the petitioner was attacked by two unknown persons.

The Sub-Inspector of Police, I Town Law & Order Police Station, Kakinada, filed a counter-affidavit stating that as many as 21 witnesses were examined during the investigation in Crime No.177 of 2010 but despite their sincere and vigorous efforts, the accused were not found. The Investigating Officer was therefore stated to have obtained permission from the Sub-Divisional Police Officer, Kakinada, on 29.02.2012 to refer the complaint as 'Un Detectable'. Notice to this effect was stated to have been given to the complainant, the petitioner's wife, on 10.02.2012. The final report in this regard was said to have been filed before the learned III Additional Judicial First Class Magistrate, Kakinada on 01.03.2012. As regards the petitioner's allegation that neither he nor his wife was examined, the Sub-Inspector of Police stated that the petitioner and his wife were, in fact, examined and detailed statements were recorded under Section 161 Cr.P.C. on 06.02.2011 and 21.12.2010 respectively. Copies of the final report along with the statements recorded under Section 161 Cr.P.C. of the petitioner and his wife are produced.

Though Sri A.K.Kishore Reddy, learned counsel for the petitioner, would contend that the said statements were not recorded upon examination of the petitioner and his wife and asserts that lack of

signatures of the petitioner and his wife on these statements is sufficient to draw an adverse inference, the learned Assistant Government Pleader pointed out that under Section 162 Cr.P.C. the statements recorded under Section 161 Cr.P.C. are not to be signed by the persons examined. In that view of the matter, no inference can be drawn by this Court at this stage.

It is an admitted fact that the final report was filed before the competent criminal Court in the year 2012. Instead of taking appropriate measures before the said Court, the petitioner approached this Court by filing this writ petition. It is therefore for the petitioner or his wife to take appropriate measures before the competent criminal Court, in the event they are aggrieved by the final conclusion arrived at by the police authorities.

Reserving liberty to the petitioner and/or his wife to do so, the writ petition is closed.

Pending miscellaneous petitions, if any, shall also stand closed. No order as to costs.

SANJAY KUMAR, J

Date:07.09.2015

GJ