

HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.33779 of 2016

ORDER:

This writ petition is filed for a writ of *mandamus* declaring the inaction of respondents 2 and 3 in conducting investigation and filing the charge sheet/final report in CFR No.1794 of 2016, on the file of the Judicial Magistrate of First Class, Railway Koduru, YSR Kadapa District, as illegal and arbitrary and consequently to direct respondents 2 and 3 to forthwith conduct the investigation, apprehend the accused and file the charge sheet/final report in CFR No.1794 of 2016, on the file of the Judicial Magistrate of First Class, Railway Koduru, YSR Kadapa District.

2. Heard and perused the material available on record.

3. The case of the petitioner is that the petitioner is the Branch Manager of a nationalized bank viz., Union Bank of India. M/s. Sree Kavamma Educational and Rural Society, Railway Kodur Mandal, Y.S.R. Kadapa District (5th respondent) has availed a term loan of Rs.1.46 crores on 30.12.2011 from the petitioner bank for construction of college building. The 5th respondent has committed default in repayment of loan amount and the account was classified as NPA on 30.09.2014 and the petitioner bank issued Demand Notice under Section 13 (2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, "the SARFAESI Act") on 08.10.2014 demanding the borrower/mortgagor/guarantors to pay Rs.1,70,62,508/- as on 30.09.2014 plus future interest, incidental expenses, costs, charges etc., within 60 days of notice. As the borrower/mortgagor/guarantors failed to discharge the entire debt

within the stipulated time, the petitioner Bank was constrained to issue possession notice under Section 13(1) of the SARFAESI Act on 28.01.2015. The petitioner Bank has taken physical possession of Ac. 0.92 cents, situated at Survey Nos.947 and 948, Anantharajupeta Village, Railway Koduru Mandal, YSR Kadapa District, belonging to the 5th respondent on 21.05.2016 through Revenue Authorities, under due panchanama. Later, the petitioner bank came to know that respondents 5 to 9 trespassed into the college building and interfered with the possession of the petitioner Bank and they broke open the college room locks, which were sealed by the Revenue Officials and entered into the building. Immediately, the petitioner Bank approached the Railway Kodur Police Station on 09.06.2016 for lodging the complaint with a request for taking immediate action to restore the possession to the petitioner Bank, but the police authorities refused to receive the complaint and register the FIR against respondents 5 to 9. Hence, the petitioner Bank preferred a private complaint on 24.06.2016 before the Judicial Magistrate of First Class, Railway Kodur, under Section 190(1) of Cr.P.C. for the offences under Sections 147, 148, 188, 427, 448, 386, 506 read with 149 IPC against respondents 5 to 9 with a request to take cognizance of the complaint against the accused and to refer the complaint for investigation. The same was referred under Section 156(3) of Cr.P.C. to the Railway Kodur Police to take necessary and proper investigation and filing of report by the police, which is numbered as C.F.R.No.1794 of 2016.

4. Learned Assistant Government Pleader for Home submitted that as per the direction, a case is registered on 11.06.2016 in Crime No.83 of 2016.

5. The grievance of the petitioner is that after registration of the crime, the respondent police has not taken any steps to complete the investigation.

6. It is informed by the learned Assistant Government Pleader that the respondent police are taking steps to complete the investigation effectively.

7. Considering the facts and circumstances of the case and the submissions of the learned Assistant Government Pleader, the Writ Petition is disposed of with the following direction:

The Station House Officer, Railway Koduru Police Station, Railway Koduru, YSR Kadapa District (3rd respondent) and the Sub-Inspector of Police, Railway Koduru Police Station, Railway Koduru, YSR Kadapa District (4th respondent) are directed to complete the investigation in Crime No.83 of 2016, as expeditiously as possible and file a final report, if any, either way in accordance with law, within a period of two (2) months from today.

8. Accordingly, the Writ Petition is disposed of. There shall be no order as to costs. Miscellaneous Petitions, if any, pending in the writ petition shall stand closed.

RAJA ELANGO, J

Date: 17th October, 2016

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