

THE HON'BLE SRI JUSTICE C.PRAVEEN KUMAR

WRIT PETITION No. 469 of 2016

ORDER :

Heard the learned counsel for the petitioners, the Assistant Government Pleader for Home for the State of Andhra Pradesh appearing for respondents 1 to 3 and the learned counsel appearing for the fourth respondent.

2. This Writ Petition is filed seeking to declare the action of respondents 1 to 3 in not investigating into crime No.703 of 2015 of Visakhapatnam III Town police station registered for the offences punishable under Sections 448, 427 read with 34 of the Indian Penal Code, 1860 (for short, 'IPC') as per law, as illegal and arbitrary.

3. The averments in the affidavit filed in support of the Writ Petition *inter alia* would go to show that the petitioners are tenants of Wakf property known as Mohammadia Mosque situated at Main Road, Chinna Waltair, Visakhapatnam, by virtue of rental agreement dated 16.12.1995 and that they are paying the rents regularly. It is said that Respondent no.5, who is former President of the Managing Committee, with the support of respondents 6 and 7, who are the then Treasurer and Member respectively, criminally trespassed into the mulgies of the petitioners and damaged valuable articles, shutter of the 2 mulgies out of 14 mulgies, which belong to the

Mohammadia Mosque due to previous disputes. On a report lodged by the petitioners on 25.12.2015, the respondent no.3 registered a case in crime No.703 of 2015 for the offences punishable under Sections 448, 427 read with 34 IPC. As no action was taken against respondents 5 to 7, though the crime was registered on 25.12.2015, the present Writ Petition has been filed.

4. Respondent no.3 filed counter affidavit denying the averments made in the affidavit filed in support of the Writ Petition. It is stated that during the course of investigation, the police examined 14 witnesses, and after completion of investigation, filed a charge sheet on 07.03.2016 before the Court of IV Additional Chief Metropolitan Magistrate, Visakhapatnam. It is stated that as on the date of filing of the counter affidavit in this Writ Petition, the charge sheet was not yet numbered.

5. From a reading of the counter affidavit filed by respondent no.3, it cannot be said that the police have failed to conduct investigation as per law in the said crime. As stated earlier, after examining as many as 14 witnesses, a charge sheet came to be filed before the court concerned. But, the learned counsel for the petitioners states that the police have not filed charge sheet in the above crime and that the averment in the counter affidavit of respondent no.3 that the charge sheet

has been filed before the competent court, is incorrect. Except making an oral assertion, no reply has been filed by the petitioners to the counter affidavit filed by respondent no.3.

6. Having regard to the circumstances stated above, the respondents 1 to 3-police are directed to file charge sheet in crime No.703 of 2015 of Visakhapatnam III Town police station within a period of 15 days from today, if no charge sheet is filed till today. But, if the charge sheet is already filed, the court concerned shall take cognizance of the same, if it is otherwise in order and proceed in accordance with law.

7. With the above direction, the Writ Petition is disposed of. Miscellaneous petitions pending, if any, in the Writ Petition shall stand closed in the light of this final order. No order as to costs.

C.PRAVEEN KUMAR, J

01.06.2016
DRK

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