

THE HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.34456 OF 2016

ORDER:

This writ petition is filed under Article 226 of the Constitution of India seeking to declare the action of respondent Nos.2 and 3 in not conducting any enquiry as per the directions of the III Additional Judicial Magistrate of First Class, Kakinada on the remand report, dated 16.9.2016, in Crime No.33 of 2016, and not protecting the life and liberty of the petitioner from respondent No.5 and others as illegal and arbitrary and consequently, to direct respondent Nos.2 and 3 to take action against respondent No.5 and other police constables for the illegal detention and custodial torture of the petitioner.

2. Heard and perused the material available on record.
3. The offences alleged against the petitioner are punishable under Sections 457 and 380 I.P.C.
4. Learned counsel for the petitioner submitted that respondent No.5 brutally beat the petitioner and kept him in illegal custody for a period of three months; that when the petitioner was produced before the III Additional Judicial Magistrate of First Class, Kakinada, the learned Magistrate has recorded the plea of the petitioner and passed an order on 16.9.2016 as follows:

“..... In view of the above statement of accused, it is proposed to send complaint to the Hon’ble Principal District and Sessions Judge, East Godavari District and Superintendent of Police, East Godavari District and also District Collector, East Godavari District for further action in this matter. It is also proposed to conduct discreet

enquiry, in view of the specific allegations made against I Town CCS Police Station and also III Town CCS Police Station, Kakinada”

But till date, no action has been taken against respondent No.5 and others.

5. Considering all the facts and circumstances of the case and after hearing the learned counsel for the petitioner, this Court is of the view that as the learned Magistrate has already considered the plea of the petitioner and passed the aforesaid order informing that the complaint would be forwarded to the authorities concerned for taking appropriate action and according to the petitioner, no such action has been taken by the said Magistrate till date, this Court is of the view that the petitioner can very well approach the III Additional Judicial First Class Magistrate, Kakinada and inform the earlier observation made by him on 16.9.2016 and seek his remedy before the said Magistrate.

6. Accordingly, the Writ Petition is disposed of. There shall be no order as to costs.

7. Miscellaneous Petitions pending, if any, in this Writ Petition shall stand closed.

JUSTICE RAJA ELANGO

7.11.2016
AMD

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Date: 7.11.2016

AMD