

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

AND

THE HON'BLE SRI JUSTICE M.S.K.JAISWAL

W.P.No. 22621 OF 2016

DATED 21ST DECEMBER, 2016

Between:

Muliki Mery

... 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

:

Sri N.Siva Reddy

Counsel for respondent Nos. 1 to 4

:

S.G.P. for Home (A.P.)

Counsel for respondent No. 5

:

Sri S.Pranathi

THIS COURT MADE THE FOLLOWING

ORDER: (per Hon'ble Sri Justice C.V.Nagarjuna Reddy)

The wife of one Muliki Appanna (hereinafter referred to as 'the detenu') filed this Writ Petition seeking issue of *Habeas Corpus* directing the respondents to produce her husband before this Court.

2. It is *inter alia* stated by the petitioner that her husband was working under respondent No. 5 in his brick kiln as coolie; that respondent No. 5 started harassing the petitioner from the month of November, 2015, for not satisfying his sexual lust; that as the harassment continued unabated and that as her husband is missing, the petitioner has made enquiries at the brick kiln of respondent No. 5 but no one has given her any information about the whereabouts of her husband; that the report given by her against respondent No. 5 for sexual harassment was registered as F.I.R.No. 70 of 2016 under Section 354-A of the Indian Penal Code (for short, 'I.P.C.') and a man missing was also recorded in the F.I.R. and that despite lapse of substantial time, no action has been taken by respondent No. 4 either to trace the whereabouts of the alleged detenu or to proceed against respondent No. 5 in pursuance of the F.I.R.

3. This Court, by order dated 20-07-2016, directed respondent Nos. 2 and/or 3 to handover investigation of the case to some responsible police officer forthwith and consider transfer of respondent No. 4 from his police station to some other police station. A further direction was issued that the respondents shall continue their efforts to trace the alleged detenu and produce him before the Court.

4. The Inspector of Police of respondent No. 4 police station filed a detailed counter affidavit, wherein he has enumerated several steps taken to trace the alleged detenu in paragraph Nos. 8 to 10. In paragraph No. 11, he has averred that as a doubt has arisen whether a common case can be registered both for the offences under Section 354-A I.P.C. and man missing, he sought for clarification from the Additional Public Prosecutor, Alamuru, who

gave the opinion that the investigating agency may obtain a certified copy of the original F.I.R. and file the same before the jurisdictional Court along with memo with the prayer to treat the said certified copy as another crime relating to man missing. It is further stated that he has consulted his superior officers and that after receiving further clarification, he will proceed with the case. In paragraph No. 12, the deponent has stated that he has downloaded photos of unidentified dead bodies in the police intranet system and criminal intelligence system and got the details of lookout notices from A.P.P.M.S. from the States of Andhra Pradesh and Telangana and that he has shown all the photos and particulars to the relatives of the missing man and tallied the contents of the F.I.R. and photo but he could not get any useful information about the missing man. He has averred that he has deputed three teams on this work only.

5. The afore noted contents of the counter affidavit reveal that respondent No. 4 has spared no effort to trace the missing man. Since the missing man is not in the custody of either respondent No. 4 or respondent No. 5, no relief as claimed in this Writ Petition can be granted. Respondent No. 4 is directed to continue his efforts to trace the missing man. As regards the alleged inaction of respondent No. 4 in connection with F.I.R.No. 70 of 2016, the petitioner shall be free to avail appropriate remedies available to her under the Code of Criminal Procedure.

6. Subject to this liberty given to the petitioner, the Writ Petition is closed.

C.V.NAGARJUNA REDDY, J.

M.S.K.JAISWAL, J.

Date: 21-12-2016
JSK