

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No.21172 OF 2017

ORDER:

This Writ Petition, under Article 226 of the Constitution of India, came to be filed seeking the following relief:

“ ... to issue a Writ or Direction more particularly one in the nature of Writ of Mandamus to order the Respondent Nos.7 and 8 to refer the case of the petitioner in relation to F.I.R. No.7 of 2015 dated 04.02.2015 on the file of the SHO, Nizampatnam P.S. to C.B.C.I.D. or any other Special Authorities for further investigation so as to ensure proper progress to bring out the truth in the above case and pass such other order or further orders as this Hon'ble Court deems fit and proper in the circumstances of the case.”

Heard learned counsel for the petitioner, learned Assistant Government Pleader for Home, Learned Government Pleader for Co-operation and learned Government Pleader for Fisheries, for respondents. With their consent, the Writ Petition is disposed of at the stage of admission itself.

The facts leading to filing of the present Writ Petition are as follows:

The husband of the petitioner namely GRSSV Subba Rao was working at the outlet of R-4 and posted at the office of R-6 at Nizampatnam. Petitioner and her other family members were residing at Hyderabad while her husband was residing at his work place i.e. Nizampatnam. While so, in the month of February, 2015, the petitioner came to know through the colleagues of her husband that her husband was not attending to his duties from 03.02.2015 onwards. On coming to know about the same, the petitioner along

with other family members went to Nizamapatnam and lodged a report, about the missing of her husband. Basing on which, a case in crime No.7 of 2015 came to be registered on 04.02.2015. Subsequent thereto, the petitioner came to know that The General Manager of R-3 lodged a report at Nizampatnam Police Station alleging that the husband of the petitioner had embezzled an amount of Rs.15,00,000/-. Subsequently, on 03.05.2015, R-4 issued letter No.185/AF-1/15 proposing to recover an amount of Rs.28,30,653/- either from the husband of the petitioner or his family members and a charge memo dated 23.04.2015 was also issued. Further, vide proceedings No.185/AF-1/15 dated 25.01.2016 of R-4, the husband of the petitioner was dismissed from service from 02.02.2015 and a departmental enquiry was also initiated against the husband of the petitioner. The grievance of the petitioner is that without making any efforts to trace her husband and even without conducting any enquiry in that regard, the department personnel are trying to recover the amounts from her and also not giving any opportunity to her to represent her case. Hence, seeking transfer of FIR No.7 of 2015 from the file of the SHO, Nizampatnam, to CBCID, the present Writ Petition is filed by the petitioner.

The main grievance of the petitioner in this writ petition is to conduct proper investigation in crime No.7 of 2015 of Nizampatnam Police Station.

As seen from the material on record, the husband of the petitioner is alleged to have swindled amounts to a tune of Rs.15,00,000/-. Though the request of the petitioner in this writ

petition is for proper investigation by the Police, her main grievance is that without conducting proper and fair investigation, the authorities have fixed the liability on the husband of the petitioner for the alleged misappropriation.

It is to be noted here that investigation is still pending in crime No.7 of 2015. If there is any material in support of her case, it is always open to the petitioner or husband of the petitioner to produce the same before the authorities concerned, who shall deal with the same, in accordance with law.

At this stage, the learned counsel for the petitioner submits that the husband of the petitioner is missing and his whereabouts are not known. As such, a suitable direction may be given to trace him out. For redressal of such grievance, the remedy available to the petitioner would be to file a Writ of Habeas Corpus. This Court cannot order tracing of a missing person in the present Writ.

Therefore, the Writ Petition is dismissed as devoid of merits.

Miscellaneous petitions pending in this writ petition, if any, shall stand closed. No costs.

29.06.2017
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C. PRAVEEN KUMAR, J