

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No.18221 OF 2017

ORDER:

Heard the learned counsel for the petitioner and the learned Government Pleader for Home for the State of Andhra Pradesh. With their consent, the present writ petition is disposed of at the admission stage itself.

2. The Writ Petition, under Article 226 of the Constitution of India, came to be filed seeking issuance of writ of *mandamus* declaring the action of the respondents in not considering the petitioner's representation dated 10.04.2017, to alter the section of law from 174 Cr.P.C., to Section 302 IPC against the accused, who are responsible for the death of her son namely Baji, despite specific allegations made and the post-mortem examination report, dated 10.04.2017 indicating that her son had not died due to hanging, as illegal and arbitrary, consequently direct the respondents to take action on the representation, dated 10.04.2017 made by the petitioner, duly taking into consideration the post-mortem examination report dated 10.04.2017 issued by the Medical Officer, Guntur Medical College, Guntur.

3. The averments in the affidavit filed in support of the writ petition are as under:

On 11.03.2017 the petitioner herein lodged a complaint before the Superintendent of Police, Guntur District, stating that her son by

name Baji met with an unnatural death and she suspected that one Avula Yellaiah might have killed her son. Basing on the report, a case in Crime No.56 of 2017 came to be registered under Section 174 Cr.P.C. Thereafter, the dead body was sent for post-mortem examination, wherein the doctor opined that the cause of death is not suicide, but murder. It is further stated that on 05.04.2017 while the petitioner was sleeping in front of her house, one Avula Gurunadham came there and stated that he killed her son with the help of Gollamudi Chandu and Sudhakar and on the same day, they gave Rs.3,00,000/- to the Sub-Inspector of Police by name Gudi Rajeswara Rao and Rs.50,000/- to Writer Kondalu to hush up the case. Inaction of the police in not taking any action in spite of bringing these facts to their notice by way of representation, dated 10.04.2017, requesting to alter the section of law from Section 174 Cr.P.C., to Section 302 IPC, they failed to do so. Hence, the present petition.

4. The grievance of the petitioner is that though the allegations made in the First Information Report and the material before the police do disclose commission of an offence punishable under Section 302 IPC, the police are not considering the representation made by the petitioner for altering the section of law from Section 174 Cr.P.C., to Section 302 IPC.

5. It is to be seen here that giving representation is not the remedy. If the petitioner is actually aggrieved by the inaction of the police in altering the section of law, she has the remedy of filing a

private complaint before the concerned Court or take action under Section 154(3) Cr.P.C., or get the private complaint referred to under Section 156(3) Cr.P.C., or filed a report before the higher authorities bringing to their notice the inaction of the police. Definitely, there cannot be a representation to the authorities to alter the section of law. The investigation done and the material, which has been collected by the police during the course of investigation, is to the exclusive knowledge of the investigating agency. If really an offence as alleged is made out, the police shall file an application seeking alteration of First Information Report. But, the request of the petitioner to alter the section of law to Section 302 IPC basing on a representation cannot be done.

6. Hence, the request of the petitioner cannot be accepted. However, it is always open to the petitioner to furnish all the information which she has, to the investigating agency, who in turn shall look into the same either for altering the section of law or for filing a final report.

7. Accordingly, the Writ Petition is disposed of.

Consequently, Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed. There shall be no order as to costs.

JUSTICE C. PRAVEEN KUMAR

Date:07.06.2017
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