

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.11341 OF 2011

ORDER:

This writ petition is filed seeking writ of mandamus directing the 1st respondent to file the charge sheet in Cr.No.284 of 2007 of P.S.Nandigama and proceed with the accused-respondents 4 to 6 in accordance with law.

2. It is the case of the petitioner that she was studying Intermediate 2nd year in Krushi Junior College and staying in the hostel run by the college. On the intervening night of 7/8.11.2007, when she was in the hostel room, the respondents 6 and 5 made an attempt to kill her and caused a deep cut injury on her throat. That the petitioner's father was informed about the incident and he lodged a complaint before the 1st respondent on 08.11.2007, which was registered as Cr.No.284 of 2007 initially under Section 324 IPC and later altered to Sections 307, 323, 326, 506 read with Section 34 IPC. The 4th respondent was arrested and later released on bail. The 5th respondent obtained anticipatory bail on 25.07.2008 in CrI.M.P.No.671 of 2008 from the Hon'ble I Addl. Sessions Judge, Krishna at Machilipatnam. The 5th respondent was arrested on 08.12.2007 and was released on bail after 22 days. That her statement under Section 164 Cr.P.C was recorded on

29.11.2007 by the First Class Magistrate at Nandigama and again her statement under Section 164 Cr.P.C was recorded on 21.06.2008 by the Judicial Magistrate of First Class, Jaggaiahpet. It is stated that inspite of petitioner's categorical statements that the respondents 5 and 6 are the only two persons who made attempt to kill her, one Satyam Babu was arrested by the Police, Nandigama on the intervening night of 16/17.08.2008 and on his confessional statement stating that he made an attempt to kill the petitioner on the alleged date, he was made as sole accused in Cr.No.284 of 2007, after deleting the names of the respondents 4 to 6. That the petitioner came to know that the said Satyam Babu filed CrI.P.No.5633 of 2009 & batch, before this Court for quashing several crimes registered against him including Cr.No.284 of 2007 and that this court by its order dated 30.09.2009, quashed certain crimes registered against him including Cr.No.284 of 2007, in which the petitioner is a victim. That the 1st respondent ought to have proceeded with the case since earlier the respondents 4 to 6 were shown as accused and ought to have taken into custody and further recorded the statement of other witnesses. Though the petitioner approached the 1st respondent and filed representation to the 2nd respondent on 31.03.2010 with a request to take further action in this case, which was received by him on 04.04.2010, no action has

been taken. Though the petitioner made representations dated 22.06.2010 and 26.06.2010, no action is being taken and that the respondents 1 and 2 are not investigating the case and filing charge sheet. Aggrieved by the same, present writ petition is filed.

3. Counter affidavit is filed by the 2nd respondent stating that since one Satyam Babu admitted and made confessional statement and same was supported by witnesses, the names of the 4th to 6th respondents were deleted. It is stated the father of the petitioner lodged a written report on 08.11.2007 stating that some unknown persons have inflicted injuries to his daughter i.e., Vangapati Radha and she is taking treatment in ICU of Andhra Hospital, Vijayawada, Krishna District. Basing on the said report Cr.No.284 of 2007 was registered under Section 324 IPC of Nandigama Police Station, Krishna District and the SHO, Nandigama took up the investigation. That subsequently, as per the instructions of the Superintendent of Police, Krishna, Inspector of Police, Nandigama took up investigation and during the course of investigation, Section of law was altered from Section 324 IPC to 307, 326, 506, 201 r/w 34 IPC. That subsequently, the Inspector of Police, Nandigama arrested the 6th respondent and sent to Juvenile Court, Vijayawada and 4th and 5th respondents surrendered before the Judicial First Class Magistrate, Nandigama. That

during the course of investigation, it is revealed that the writ petitioner received deep injury at her throat and she was in an unconscious state, unable to give her statement to the police till 15.11.2007. The petitioner in her statement suspected one Paturi Prasanna Lakshmi as culprit to the incident. During the course of investigation, one Pidathala Satyam Babu gave confessional statement and admitted about the commission of offence on petitioner and that the said person was also involved in a murder case of Ayesha (Cr.No.477/2007 of Ibrahimpatnam Police Station of Vijayawada city), wherein the said P.Satyam Babu was sentenced to 10 years imprisonment for Murder and 10 years imprisonment for Rape. It is stated that several cases against said Satyam Babu were registered viz., Cr.No.344/2007 (murder of women warden, Cr.No.284/2007, attempt to murder and rape against petitioner, Cr.No.11/2008 (attack against a married woman), Cr.No.150/2008, Cr.No.153/2008, Cr.No.154/2008, Cr.No.224/2008, Cr.No.241/2008 and Cr.No.284/2008, for outraging the modesty of girl students in Hostels of Nandigama Police Station. It is stated that after recording the confessional statement of said P.Satyam Babu, the names of the respondents 4 to 6 were deleted and filed charge sheet against said Pidatala Satyam Babu after thorough investigation in Cr.No.284 of 2007. It is stated

that the said Pidatala Satyam Babu filed CrI.P.No.5650 of 2009 along other criminal petitions for quashing the same, the same was allowed on 30.09.2009,

4. Learned counsel for the petitioner submits that though the petitioner specifically alleged about the overt acts against the respondents 5 and 6 in her confessional statements recorded under Section 164 Cr.P.C on 29.11.2007 and 21.06.2008, before the concerned Magistrates, no action is being taken on the same. He submits that inspite of quashing the criminal proceedings against Pidatala Satyam Babu, no further action is taken on the representation of the petitioner, which is illegal. When the petitioner has made specific overt acts against the respondents 5 and 6, it is for the respondent No.2 to take further action on the representation of the petitioner by filing charge sheet, in accordance with law.

5. On the other hand, learned Assistant Government Pleader for Home submits that after thorough investigation, charge sheet has been filed in Cr.No.284 of 2007 against Pidatala Satyam Babu, who is accused in the said crime. He further submits that when the said Pidatala Satyam Babu filed CrI.P.No.5650 of 2009 in Cr.No.284 of 2007, along with other petitions for quashing the charge sheets filed against him, this Court allowed CrI.P.No.5650 of 2009 quashing the Cr.No.284 of 2007 along with other criminal petitions. He

further submits that when the matter was taken up to Hon'ble Supreme Court by way of Special leave Petition Nos.185-189 of 2011, the said petitions are dismissed on 25.08.2014 and upheld the decision of this Court in quashing the Cr.No.284 of 2007.

6. In this case, a perusal of the confessional statement given by the petitioner under Section 164 Cr.P.C on 29.11.2007 and also on 21.06.2008 goes to show that specific overt acts against respondents 5 and 6. Admittedly, criminal proceedings were quashed against Pidatala Satyam Babu, against whom the charge sheet was filed in Cr.No.284 of 2007. It is relevant to point out herein that the allegations of the petitioner in Cr.No.284 of 2007 on the file of PS, Nandigama, have not been dealt with by the respondents 1 and 2. A reading of the order dated 30.09.2009 in Crl. Petition No.5650 of 2009 goes to show that criminal proceedings against Pidatala Satyam Babu were quashed only on the ground that the prosecution initiated action against said person on his confessional statements, which is against the statements of victim-petitioner herein and observed that statement under Section 164 of Cr.P.C recorded by the Magistrate on 21.06.2008 clearly shows that the petitioner herein stated about the involvement of respondents 5 and 6 made an attempt to kill her. In the said judgment, a reference was also made to

another statement made on 20.11.2007 wherein the petitioner stated that the Pidatala Satyam Babu was falsely implicated in the crime. It is also found from the charge-sheet and the other material on record that the petitioner, who is victim in Cr.No.284 of 2007, was specific about identifying the culprits though, after she regained from her consciousness. It was also observed that the even if the prosecution case is accepted as it is at face value, these two recoveries contradicted the claim of the victim herself about identifying culprits and innocent person i.e., Pidatala Satyam Babu cannot be the basis of any successful prosecution even if the proceedings were to be allowed to proceed further.

7. This Court allowed the quash petition i.e., CrI.P.No.5650 of 2009 filed by Pidatala Satyam Babu mainly on the ground that the respondents 1 and 2 proceeded against him, which is against the statements of the petitioner-victim recorded before the concerned Magistrates, wherein she categorically stated about the involvement of the respondents 5 and 6 to murder her. In those circumstances, the criminal proceedings against said Satyam Babu were quashed. Mere quashing of criminal proceedings against Satyam Babu does not absolve the concerned police officer from taking action against culprits. Even after disposal of the criminal petition filed by Satyam Babu, the petitioner

herein made a representation to the respondents 1 and 2 to take action against the respondents 5 and 6, but no action has been taken yet. Though the counter affidavit is filed by the 2nd respondent stating several issues, but there is no reference with regard to the representation filed by the petitioner nor it is specifically denied therein. In those circumstances, it can be safely concluded that the 2nd respondent being superior officer in Police Department in Vijayawada District, is obligated on his part to examine the representation of the petitioner in the light of facts and circumstances of the case and take action in accordance with law, but unfortunately no action is taken. Though it is stated in the counter affidavit filed by the 2nd respondent that the said Pidatala Satyam Babu was also involved in murder case of Ayesha and case was registered in Cr.No.477 of 2007 of Ibrahimpatnam Police Station of Vijayawada, and he was also sentenced to 10 years imprisonment for Murder and 10 years imprisonment for rape. But he was acquitted in Crl.Appeal No.1518 of 2010, which is filed by him, wherein this Court allowed the same on 31.03.2017 and found fault with the investigating officer and gave several directions, which reads as follows:

“93. Having expressed its deep concern for false implication of innocent people and their conviction, the Supreme Court has framed the following guidelines for fixing responsibility on the investigating/prosecuting officials responsible for acquittal.

On the culmination of a criminal case in acquittal, the concerned investigating/prosecuting official(s) responsible for such acquittal must necessarily be identified. A finding needs to be recorded in each case, whether the lapse was innocent or blameworthy. Each erring officer must suffer the consequences of his lapse, by appropriate departmental action, whenever called for. Taking into consideration the seriousness of the matter, the concerned official may be withdrawn from investigative responsibilities, permanently or temporarily, depending purely on his culpability. We also feel compelled to require the adoption of some indispensable measures, which may reduce the malady suffered by parties on both sides of criminal litigation. Accordingly, we direct, the Home Department of every State Government to formulate a procedure for taking action against all erring investigating/prosecuting officials/officers. All such erring officials/officers identified, as responsible for failure of a prosecution case, on account of sheer negligence or because of culpable lapses, must suffer departmental action. The above mechanism formulated would infuse seriousness in the performance of investigating and prosecuting duties, and would ensure that investigation and prosecution are purposeful and decisive. The instant direction shall also be given effect to within 6 months.

In pursuance of these guidelines, the Government of Andhra Pradesh has issued G.O. Ms. No.20, dt.14.02.2017, constituting an Apex Committee with Home Secretary as Chairman, Law Secretary, Director General of Police and other functionaries as Members, for identification of erring investigation/prosecuting officials/officers for their failure in a prosecution case and for taking departmental action against such officials/officers in accordance with law.”

In view of above facts and circumstances, this writ petition is disposed of directing the 2nd respondent to take action on the representation of the petitioner basing on the observations made by this Court in CrI.A.No.1518 of 2010, and also appropriate action for prosecuting the culprits in the crime, in accordance with law. There shall be no order as to costs. As a sequel to the disposal of these writ petitions, miscellaneous petitions, if any, pending shall stand disposed of.

A.RAJASHEKER REDDY,J

18-07-2017
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HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.11341 OF 2011



Date: 18.07.2017

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