

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.28563 OF 2017

Date 30.08.2017

Between:

Mohammed Arshad.

... Petitioner

AND

The State of A.P. rep. by its Principal Secretary, Home
Department, Secretariat, Velagapudi, Amaravathi,
Guntur District and others.

.....Respondents



HONOURABLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.28563 of 2017

ORDER:

This Writ Petition is filed by the petitioner alleging interference of police in his business.

Petitioner states that he is doing furniture business at Shop No.2, 2nd floor in Samineni Complex, G.T.Road, Srikakulam, having obtained lease on a monthly rent of Rs.18,200/- and had deposited Rs.4.00 lakhs as advance. Petitioner claims to have filed suit in O.S.No.79 of 2017 on the file of Junior Civil Judge, Srikakulam and obtained an order of injunction in I.A.No.543 of 2017 dated 25.04.2017. Despite which, the owner as well as his family members had broken the godown keys and stole furniture and other items. Though complaint was made on 03.06.2017, no FIR was registered. Petitioner contends that respondent No.3, instead of extending protection to him, is extending cooperation to the landlord.

Learned Government Pleader for Home (AP), on written instructions from respondent No.3, would submit that, on the complaint made by Smt Parimi Saradadevi on 03.06.2017, Crime No.109 of 2017 was registered against the petitioner for the offences under Sections 448, 354 read with 34 IPC; in connection with the said crime, enquiry is being conducted, and no inconvenience is caused to the petitioner and his family members. She would place before this Court a copy of the First Information Report from which it is clear that FIR

No.145 of 2017 was registered on 26.07.2017 on the file of Srikakulam II Town Police Station, Srikakulam for offences under Sections 457, 380 read with 511 and 506 read with 34 IPC, and investigation is being conducted into.

In the facts of the present case, there being a case and counter case, and there being specific allegations against Station House Officer, II Town Police Station, Srikakulam (respondent No.3), the Superintendent of Police, Srikakulam (respondent No.2) shall take into consideration the allegations made against the Station House Officer and take necessary action in the event of finding any interference of respondent No.3 into the disputes between the petitioner and others.

This Court, while entertaining Writ Petition No. 26557 of 2011, dated 11.08.2017, made the order to the following effect:

As a matter of fact, the Apex Court in 2006 itself, while rendering judgment in ***Prakash Singh v Union of India***¹, made certain recommendations and directed them to be binding on the State Governments. A learned Judge of this Court also considered the subject issue, in detail, in Writ Petition No. 14072 of 2016 and batch. After taking notice of the judgments of the Supreme Court, the learned Single Judge *vide* judgment dated 27.04.2017, had directed to implement the ruling rendered in ***Prakash Singh's*** case, the operative portion of which reads as under:

“In view of the above legal position, these Writ Petitions are disposed of directing the Principal Secretaries to Governments, Home Departments of Telangana and the Andhra Pradesh to constitute a ‘State Security Commission’ and a ‘Police Complaints Authority’ as directed by the Supreme Court in ***Prakash Singh***, by co-opting the Member Secretary of the State Legal Services Authority of the concerned States as Member of the State Security Commission and the Secretary of the District Legal Services Authority as a Member of the Police

¹ (2006) 8 SCC 1

Complaints Authority at the District Level. Since more than a decade has passed after the Supreme Court issued directions and there is an urgent need to create a mechanism for redressal of the grievances of the public in respect of police actions, the “State Security Commission” and the “Police Complaints Authority” shall be constituted as expeditiously as possible not later than three months from the date of receipt of a copy of this order and on such constitution, the complaints of the petitioners in the above three writ petitions, shall be sent to the State Security Commission for further action since there was failure on the part of the Superintendents of Police concerned in taking action by investigating into the complaints. On constitution of such Commission and Authority, wide publicity shall be given in the print and electronic media in order to educate the general public.”

In that view of the matter, since the State is yet to take steps, as directed by this Court, in terms of **Prakash Singh’s** case, the 2nd respondent Superintendent of Police (Rural), Guntur District, with whom the petitioner lodged a complaint against the 5th respondent Station House Officer *on-line* on 15.05.2017, shall initiate necessary disciplinary action, if warrants against the latter.

It may also be noted that the petitioner shall be entitled to seek injunctive relief against Respondents 6 to 8 and the 5th respondent Station House Officer in his *eo nomine* capacity. He also can seek damages against the individual, who is officiating as the 5th respondent. Once the civil action is initiated against the individual, he is required to approach the civil Court and defend himself and justify why the damages should not be awarded against him. In that way, an effective check can be put against the individuals who are officiating and abusing their office.

Subject to above, the Writ Petition is disposed of. No costs.”

In view of the order in the above-said Writ Petition, this Writ Petition is also disposed of, in terms thereof. No costs.

Consequently, the miscellaneous applications, if any, shall stand closed.

CHALLA KODANDA RAM,J

Date:30.08.2017
Usd









