

HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

W.P.No.45490 of 2016

ORDER

This writ petition is filed challenging the action of respondents 2 and 3 in summoning the petitioner to the police station without following due process of law and confining him in the CBI office.

A counter-affidavit is filed on behalf of respondents 1 to 3 stating as follows:

“It is further submitted that the privy and involvement of the petitioner has come to the fore from the Call Date Records of the calls emanated and received from the mobile phone of the petitioner from the various intermediaries associated with the principal accused K.Sudheer Babu in the nefarious deal of the unauthorized cash exchange of demonetized currency for commission. Sri Sudheer Babu, the principal accused while he was in police custody revealed the role of the petitioner in the process of exchange of cash and hence the petitioner was informed over phone since no time is permitted to issue notice in writing as contemplated U/s.160 Cr.P.C. After receipt of the phone call, the petitioner voluntarily appeared on 14.12.2016 and was examined for one hour. He further appeared on 16.12.2016 and 17.12.2016 and was examined for one hour each and again on 18.12.2016, he was examined for half an hour. The petitioner appeared four times before the investigating officer i.e., respondent No.2 and then the petitioner was examined orally without subjecting the petitioner to any harassment or beating or abusing in filthy language as claimed by him.

It is further submitted that during the examination of the petitioner he has never given any confession according to the convenience to the Investigating Officer as such no violation of Article 21 of the Constitution of India has taken place. The fact remains, the respondent No.2 never harassed the petitioner to give any confession with regard to offences as alleged by the petitioner.

It is further submitted that the petitioner was summoned over phone to appear before the investigating officer i.e., respondent No.2 and he appeared voluntarily which does not

infringe any of his fundamental rights warranting issuance of writ of Mandamus by the Hon'ble Court. There is no impropriety in summoning the petitioner over phone without issuance notice u/s.160 Cr.P.C. and is not in violation of Article 21 of the Constitution.”

In view of the said averments, it cannot be said that respondents 2 and 3 are unnecessarily harassing the petitioner. However, it is needless to observe that while investigating the crime, the police shall follow due process of law.

Accordingly, the Writ Petition is disposed of. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE A.RAMALINGESWARA RAO

22nd February, 2017
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