

**THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO**

**WRIT PETITION No.8408 of 2017**

**ORDER:**

Heard the learned Counsel for the petitioner.

It is the case of the petitioner that he married the daughter of the fifth respondent on 22.05.2013 and it was a love marriage. They set up their family at Hyderabad and were blessed with one male child by name Master Dhanush, who was born on 19.01.2015. Some problems arose in the family and the wife of the petitioner lodged a complaint against the petitioner and his family members and the same ended in compromise. The petitioner further states that he along with his wife and son went to their native place on 24.06.2015 and stayed there for one week. After he returned to Hyderabad, leaving his wife and son in his parents' house, on 04.07.2015 he was informed that his wife was missing and his father lodged a complaint with Nagayalanka Police. Thereafter, the Police registered a case against the petitioner and his family members alleging that they murdered the wife of the petitioner. The Police handed over the custody of the petitioner's son to respondent Nos.5 and 6 on their giving an undertaking that they will look after the child. The petitioner was released on bail in the month of December, 2015, and sought for custody of the child from respondent Nos.3 to 6. When they did not handover the custody, he filed G.W.O.P.No.578 of 2016 before the learned XIV Additional District Judge – cum – Additional Family Court,

Vijayawada, Krishna District, seeking declaration that he is the guardian for the minor son. He also filed I.A.No.479 of 2016 seeking interim custody. But, the said application was dismissed on 06.01.2017. The petitioner states that thereafter he came to know about the handing over of custody of the child to respondent Nos.4 and 5 on an undertaking given by them and in those circumstances he gave a representation on 16.02.2017 asking the Police to return his son to him. This Writ Petition is filed for consideration of the said representation.

The petitioner is already an accused consequent to the death of his wife. In view of the death of his wife, the child was handed over to the relatives of his wife on their giving an undertaking that they would look after the child. The petitioner already moved the competent Court in G.W.O.P.No.578 of 2016 seeking a declaration that he is the guardian of the minor son and filed I.A.No.479 of 2016 for interim custody. When the said application was dismissed, he submitted a representation to the Police seeking return of the son. When he invoked the jurisdiction of a civil Court for appropriate relief, he should have pursued the same. He cannot submit a representation to the Police, who had taken proper action of handing over the child to the relatives of the deceased mother on the undertaking given by them that they would look after the child. The competent civil Court would be in a better position to appreciate the needs of the minor child and pass appropriate orders. The Police have no role in the custody of the child.

In the circumstances, this Court sees no ground to interfere with the action of the Police nor the action of the Police in not considering the representation of the petitioner dated 16.02.2017.

The Writ Petition is, accordingly, dismissed. The miscellaneous petitions pending in this Writ Petition, if any, shall stand closed. There shall be no order as to costs.

10.03.2017  
vs

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**(A.RAMALINGESWARA RAO, J)**

