

HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

WRIT PETITION No.24185 of 2011

ORDER:

In this Writ Petition, the petitioners prayed to issue an order in the nature of Writ of Mandamus declaring the inaction of respondent Nos. 2 to 10 in not conducting the investigation effectively in Crime No. 107 of 2011 of Chengomul Police Station, Ranga Reddy District, as illegal, arbitrary and violative of Article 21 of the Constitution of India and consequently direct the respondents 3 & 4 to entrust the investigation to CBCID and also give a direction to them to protect the lives and personal liberties of the petitioners till the completion of criminal case arising out Crime No. 107 of 2011.

2. In the affidavit filed in support of the petition, the first petitioner submitted that he belongs to Scheduled Caste (Madiga community) and working as a Tractor Driver, and on 24.6.2011 at about 12.00 noon while he was working in the fields, the police belonging to the first respondent and CI of Police, Chevella came to their fields and forcibly stopped him from attending the work and subjected him severe beating and abused him in the name of his caste and also the petitioner No. 2. The police have severely beaten even

petitioner No. 2 and took them to the police station and subjected them to severe torture. Respondents 7 & 8 also behaved cruelly by removing their clothes in the police station and beat them with the rubber tubes and sticks. Against their atrocities, the petitioners filed a private complaint before the Judicial First Class Magistrate, Parigi, Ranga Reddy District, and the same was referred to Chengomul Police Station and Crime No. 107 of 2011 was registered for the offences under Sections 323, 324, 342 IPC and Section 3 1 (x) of Schedule Caste and Schedule Tribes (POA) Act, 1989. Petitioners further stated that after registering the FIR at the instance of the Court, the police started frequenting to the petitioners' residence and threatened them to withdraw the complaint lest severe consequences should follow. With the aforesaid and other allegations, the Writ Petition is filed by the petitioners seeking the reliefs as mentioned supra.

3. The third respondent filed counter. In his counter, it is submitted that the investigation in Crime No. 107 of 2011 was pending to find out the guilt of the accused mentioned in the FIR and after completion of investigation the report would be filed before the concerned Court by following the due process. The

third respondent further stated that the Sub Divisional Police Officer, Chevella Division (11th respondent) has assured the third respondent that he would provide security to all the writ petitioners who were residing within his jurisdiction, as and when they approached him, but so far, they have not approached the Sub Divisional Police Officer, Chevella, seeking for protection. The third respondent submitted that necessary protection will be provided to the petitioners and the witnesses cited in the private complaint of the petitioner. While denying the other allegations, the third respondent submitted that the investigation was being conducted strictly as per the provisions of Schedule Caste and Schedule Tribes (POA) Act, and therefore, there is no necessity to entrust investigation to CBCID or any other agency.

4. 11th respondent also filed counter. His submission is that one Sri Kurva Ramachandraiah of Cheelapur Village, who is the brother of Sri Kurva Narsimhulu (4th petitioner herein) lodged a complaint in Crime No. 120 of 2011 before the Chengomul Police Station on 31.8.2011 stating that the 4th petitioner herein threatened him with regard to the dispute concerning to the share of the land and his complaint was registered as Crime No. 120/2011 under Sections 323

& 506 IPC and investigation is under progress. He further submitted that as investigation revealed prima facie case, the investigating officer secured the presence of 4th petitioner herein with the help of PCs 3760 & 2999 of Chengomul Police Station and interrogated him and released the 4th petitioner on his personal bond with instructions to attend the Police Station on the next day for being produced before the Court on 1.9.2011.

4.1. While denying the torture in the police station, as alleged, it is stated subsequently, the 4th petitioner did not attend as he was motivated and advised by one Mr. P. Pochi Reddy, Ex.ZPTC, Pudur. The 4th petitioner surrendered before the Court of Judicial Magistrate of First Class, Parigi on 6.9.2011, as motivated by the said Mr. P. Pochi Reddy.

4.2. It is further stated protection was given to the petitioners and the witnesses in Crime No. 107/2011. He pleaded that Crime No. 107/2011 was lodged to blackmail the police officials and wrong press statements were also given to damage the image of the police department and other higher officials in general public. He prayed not to give credence to the allegations made by the 4th petitioner.

5. When the matter came up for enquiry on 31.10.2017, learned Government Pleader for Home produced CD file in Crime No. 107 of 2011 and submitted that the police have completed the investigation in Crime No. 107 of 2011 and filed the final report before the Court of Judicial First Class Magistrate, Vikarabad under Section 173 Cr.P.C and before filing the report, notice was also given to the first petitioner under due acknowledgement. He prayed that the Writ Petition may be closed. Learned counsel for petitioner sought time for verification and submission.

6. Today, learned counsel for petitioners while submitting that the police have filed the final report before the concerned Court, would fairly admit that pending investigation in Crime No. 107 of 2011, the first respondent extended protection to the petitioners and their witnesses. Learned counsel would further submit that the second petitioner G. Narasimhulu died pending Writ Petition and the other petitioners due to their poverty and other problems could not file their protest petition before the Court of Judicial First Class Magistrate, Vikarabad, against the final report filed by the police and hence, an opportunity may be given to them to file the protest petition and contest the matter.

7. In view of the above submission of the learned counsel, petitioners are given liberty to approach the Court of Judicial First Class Magistrate, Vikarabad, and file their protest petition against the final report filed by the police in Crime No. 107 of 2011 of Chengomul Police Station, within four weeks from the date of this order and upon filing of such petition, the said Court shall make an enquiry and pass appropriate orders on merits, as expeditiously as possible, but not later than three months from the date of receiving the protest petition.

8. With these observations, the Writ Petition is disposed of. There shall be no order as to costs. As a sequel there to, miscellaneous applications, pending if any, shall stand closed.

U.DURGA PRASAD RAO, J

Date: 01.11.2017

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Note: Furnish copy in two days.