

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.6879 OF 2017

ORDER:

Heard learned counsel for the petitioner and the learned Government Pleader for respondents.

This writ petition is filed challenging the action of the sixth respondent in taking the petitioner into custody and detaining him without any reason and for a consequential direction to conduct an enquiry and handover gold of about 150 grams which was taken from the petitioner's shop by the sixth respondent.

This Court issued 'Notice Before Admission' on 28.02.2017 and it is listed for hearing today.

No counter affidavit is filed by the respondents, but they gave written instructions. Learned Government Pleader submits that since no complaint was registered against the petitioner with the sixth respondent police station, calling the petitioner to the police station does not arise. It is also submitted that the respondents/police never visited the petitioner's shop and never detained the petitioner in the police station. The other allegations of threat and abuse are also denied. The averment of the petitioner that the Railway Police of Vizianagaram on one occasion and the police of Parvada Police Station on another occasion visited the petitioner's shop and seized some gold, is not within the knowledge of the sixth respondent. It is also submitted that the petitioner's shop is having C.C.Cameras and nothing prevented the petitioner from submitting the photographs to prove that the respondents/police visited the petitioner's shop at any time either in February, 2016 or in February, 2017. The photographs filed along with the writ petition do not relate to the sixth respondent.

The petitioner lodged a complaint on 23.01.2017 to the Station House Officer, Pathapatnam Police Station, fifth respondent herein, with

copies to respondents 2 and 3. The allegation in the complaint is that the sixth respondent visited the petitioner's shop in 2016 and picking up the petitioner to somewhere other than the police station and detaining them illegally alleging that he purchased stolen gold and they were demanding money also with a threat to implicate the petitioner in false cases. When the petitioner expressed his incapacity to meet their demands, they were collecting the gold from the petitioner's shop. On 02.01.2017, the petitioner approached the third respondent and in spite of the same, no action was taken.

Since this is a serious matter, the third respondent should have taken appropriate action in accordance with law. No such action appears to have been taken in spite of written complaint of the petitioner, dated 23.01.2017. Though the sixth respondent is denying the petition averments, in view of the nature of allegations, an enquiry has to be conducted against the respondents 5 and 6. If the petitioner is involved in any crime, it is always open to the police to take appropriate steps in accordance with law, but the police themselves cannot violate the law.

In the circumstances, the writ petition is disposed of directing the third respondent to take into account the complaint, dated 23.01.2017, lodged with the fifth respondent with a copy to him, and conduct enquiry and take appropriate action in accordance with law.

The writ petition is accordingly disposed of. Miscellaneous petitions, if any, pending in the writ petition shall stand closed.

A.RAMALINGESWARA RAO, J

17.04.2017
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