

HON'BLE SRI JUSTICE S.V.BHATT

WRIT PETITION No.35450 of 2017

ORDER:

Heard Sri Srinivas Rao Bodduluri for petitioner and the Assistant Government Pleader for Home.

The petitioner prays for Mandamus declaring the inaction of respondents 2 to 5 in removing the 6th respondent or her associates from petitioner's front portion of house bearing Door No.8-68 situated at Thallagommur, Sarapaka Village, Burgampahad Mandal, Bhadrachalam, Kothagudem District, as illegal, arbitrary and unconstitutional.

The Assistant Government Pleader has received instructions, which read as follows:-

“..... On a complaint of Smt.Kari Manavatha, W/o.Phanindra Kumar (6th respondent herein) lodged with the police of Women Police Station, Khammam, a case in Cr.No.68/ 2016 U/ Secs.498-A IPC, 506 IPC and Secs.3 and 4 of Dowry Prohibition Act was registered on 22.09.2016 against the petitioner herein and his family members.

As per the evidence, prima facie case is established that all the accused including the petitioner (A4) have committed the offences mentioned in the FIR beyond all reasonable doubt. A1 is staying in USA (who is the brother of the petitioner herein). As part of investigation notice U/ sec.41(A) were served on the remaining accused A2 to A4.

After completion of the full-fledged investigation into the case, appropriate charge sheet was also filed before the Hon'ble Court of First Additional Judicial First Class Magistrate at Khammam on 28.05.2017 and praying the Hon'ble Court to issue Non-Bailable Warrant against A1 Mr.Kari Phanindra Kumar

who is the husband of the complainant (brother of the petitioner herein).

It is pertinent to submit that this respondent police enquiries revealed that since the husband of the complainant / 6th respondent is leaving her along with minor girl and staying in USA, the complainant did not digest it and erected a tent in front of the house of her husband from some days.

It is humbly submitted that it appears that the dispute of the petitioner herein and his sister-in-law who is the complainant/ 6th respondent herein who erected a tent in front of his house for justice (since the brother of the petitioner A1 is staying in USA leaving air the complainant and her 2 years minor child) is purely civil in nature and matrimonial issue and hence this respondent police are no way concerned with it.

This respondent police are not the competent authority to remove the alleged tent erected by the 6th respondent who is the sister-in-law of the petitioner herein unless and until, there are any specific directions to do so.

The petitioner is unnecessary trying to involve the respondent police into his personal affairs....”.

The stand of police is that the dispute between 6th respondent and her husband is matrimonial dispute and the dispute between the petitioner and the 6th respondent is civil dispute and police do not want to interfere in a civil dispute.

When the police perceive the happenings at subject site as civil in nature, this Court is of the view that issuing a direction would be contrary to the procedure prescribed under the Code of Criminal Procedure or the jurisdiction of this Court under Article 226 of the Constitution of India.

This Court is not inclined to entertain the writ petition. The dismissal of writ petition ought not to be understood as this Court

expressing a view on any of the grievances of the 6th respondent vis-à-vis her husband or the petitioner herein.

The petitioner, if so advised, can work out remedies before the Court of competent jurisdiction. No order as to costs.

Miscellaneous petitions, if any, pending, shall stand closed.

S. V. BHATT, J

Dt: 13-11-2017
Prv



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