

THE HON'BLE SRI JUSTICE S.V.BHATT

WRIT PETITION No.37112 of 2017

ORDER:

Heard Mr Rastra Pal, counsel for petitioners and the Assistant Government Pleaders for Home (TS & A.P) for respondents 1 to 3.

Petitioners pray for *mandamus* declaring the action of 4th respondent in harassing the petitioners by registering false cases and provoking creditors of petitioner No.1 to lodge false complaints against the petitioners, as illegal and unconstitutional.

The petitioners pray for a consequential direction to respondents 1 to 4 not to harass petitioners in the name of and under the guise of registration of false cases.

The 1st petitioner refers to business said to have undertaken by 1st petitioner and also a few commercial transactions which were undertaken during and in the course of business.

Now the prayer with the averments as set out in the affidavit has following limbs:

- (a) Declaring the action of 4th respondent in harassing the petitioners by registering false cases.
- (b) Provoking creditors of 1st petitioner to lodge false complaints against the petitioner.
- (c) Interfering with petitioners' freedom.

- (d) Restrain the respondents from harassing the petitioners under the guise of registration of false cases.

Let me first take up the 1st limb namely 'declaring the action of 4th respondent in harassing the petitioners by registering false cases'. The Assistant Government Pleader places on record the written instructions dated 31.10.2017 and the instructions refer to registration of Crime No.521 of 2017 under Sections 406, 409 and 420 r/w 120 (b) IPC on 05.07.2017. He refers to progress made in the investigation as well as the seizure of various articles etc. It is further stated, except investigation of crime registered against the 1st petitioner, the 4th respondent as complained in the writ petition did not harass the petitioners.

(b) Adverting to false cases, the Assistant Government Pleader submits that if a complaint is made to respondents 1 to 3 on the suggestion of accused, it cannot and could not be treated as false and that the 4th respondent ought to follow the procedure, after receiving a complaint and investigate the matter. The petitioners therefore at the stage of receiving a complaint against them or for making a GD entry, taking up preliminary enquiry or investigation, of a crime registered do not have say.

(c) As already noted, it is stated that so far steps taken are in pursuance or in continuation of Crime No.521/2017 and

the respondents are not interfering or harassing, as alleged in the writ affidavit.

To the last limb of prayer (d), it is contended by Assistant Government Pleader that a Crime is registered and admittedly, the petitioners have several transactions with several individuals, there cannot be a blanket direction under Article 226 of Constitution of India restraining individuals suffered at the hands of 1st petitioner from filing complaints.

The petitioners though tried to make it appear that the 4th respondent is going over board and either harassing the 1st petitioner and petitioners 2 to 7, after perusing the record and taking note of the stand of 4th respondent, this Court is of view that the writ prayer is substantially in the nature of preventing respondent Nos.1 and 3 to act as prescribed under Criminal Procedure Code either in the pending Crime or if a complaint is received against the petitioners.

This Court is of the considered view that the prayer is preventive from taking any step being taken by respondent No.4.

The writ prayer is not entertained and Writ Petition fails.

Accordingly, the Writ Petition is dismissed. No order as to costs. Miscellaneous petitions, if any, pending, shall stand closed.

S. V. BHATT, J

Dt: 06.11.2017
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