

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON' BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

Writ Appeal No.1736 of 2017

Judgment: (Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)

This appeal, under Clause 15 of the Letters Patent, is preferred against the order of the learned Single Judge in W.P. No. 34874 of 2017 dated 23.10.2017.

The appellant herein filed the said Writ Petition seeking a mandamus to declare the action of the Station House Officer, Miyapur Police Station, Cyberabad, Hyderabad, and the Inspector of Police of the said Police Station (who is arrayed as a respondent *eo nomine*), in interfering with the civil disputes at the instigation of respondent Nos. 7 and 8, as illegal, discriminatory and unconstitutional.

The appellant-writ petitioner's grievance is that respondent Nos. 7 and 8 were threatening the appellant-writ petitioner's tenants to vacate the shop rooms; she submitted a representation to respondent Nos. 5 and 6, but they did not register any FIR against respondent Nos. 7 and 8; at the intervention of higher officials, the 5th respondent had registered her complaint as FIR No. 872 of 2017 on 28.8.2017; the appellant-writ petitioner had filed O.S. No. 262 of 2017 for perpetual injunction against respondent Nos. 7 and 8; while notice was ordered in IA No. 413 of 2017, respondent Nos. 5 and 6 were frequently calling the appellant-writ petitioner and her family members to the police station, and had ordered them to sit in the police station for hours together; and they also demanded that they compromise the matter with respondent Nos. 7 and 8. The Appellant-writ petitioner contends that respondent Nos. 5 and 6 have no right or jurisdiction to interfere in civil disputes pending before the competent Civil Court.

In the order under appeal, the learned Single Judge observed that the prayer in the Writ Petition, was in addition to the remedies already

being worked out by the appellant-writ petitioner before the XVI Additional Junior Civil Judge, Miyapur; prima facie, he was of the view that the Writ Petition was mis-conceived; the appellant-writ petitioner was required to work out their remedies in O.S. No. 262 of 2007; and the Writ Petition was, therefore, liable to be dismissed.

While the civil disputes between the appellant-writ petitioner on the one hand, and respondent Nos. 7 and 8 on the other, can only be adjudicated in O.S. No. 262 of 2017 pending on the file of the XVI Additional Junior Civil Judge, Miyapur, the complaint in the Writ Petition was that police officials (respondent Nos. 5 and 6) were calling upon the appellant-writ petitioner to compromise the matter with respondent Nos. 7 and 8, and were forcing them to sit in the police station for hours together.

Learned Government Pleader for Home would submit that there were complaints and counter complaints by the appellant-writ petitioner on the one hand, and respondent Nos. 7 and 8 on the other; respondent Nos. 5 and 6 were not interfering with their civil disputes, but may have called upon them only in connection with the investigation into the complaints; and, in the light of the judgment of the Supreme Court in **Arnesh Kumar vs. State of Bihar and Others**¹, any action which respondent Nos. 5 and 6 shall take would be strictly in accordance with the provisions of Section 41-A of the Criminal Procedure Code, 1973 (hereinafter referred to as “the Code of Criminal Procedure”), and the law declared by the Supreme Court in **Arnesh Kumar**¹.

In the light of the aforesaid submission of the learned Government Pleader, suffice it to make it clear that, while the civil disputes between the appellant on the one hand, and respondent Nos. 7 and 8 on the other, shall be adjudicated by the XVI Additional Junior Civil Judge, Miyapur in O.S. No. 262 of 2017, respondent Nos. 5 and 6 shall investigate into the complaint made by the appellant-writ petitioner on

¹ 2014(8) SCC 273

the one hand, and respondent Nos. 7 and 8 on the other, strictly in accordance with Section 41-A of the Code of Criminal Procedure, and in the light of the law declared by the Supreme Court in **Arnesh Kumar**¹.

The Writ Appeal stands disposed of accordingly. Miscellaneous Petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

GUDISEVA SHYAM PRASAD, J

20th November, 2017

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