

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE MS JUSTICE J.UMA DEVI

WRIT APPEAL NO.1580 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 interlocutory order passed by the learned Single Judge in WP.MP.No.37756 of 2017 in WP.No.30286 of 2017 dated 11.09.2017.

The appellant herein is the petitioner in the Writ Petition wherein he sought a mandamus to declare the investigation conducted by the fourth respondent, and the final report filed in Crime No.469 of 2012, to be against justice and fair play, and in violation of Articles 19, 21 and 22 of the Constitution of India. By way of an interim order, the petitioner sought stay of all further proceedings in SC.No.166 of 2017 on the file of the Family Court-cum-VII Additional District and Sessions Judge, Medak at Sanga Reddy.

In the order under appeal, the learned Single Judge observed that the charge sheet was filed on 28.11.2014; there was no complaint by the petitioner during investigation; Section 173(2)(ii) of the Code of Criminal Procedure (Cr.P.C.) had no application; and, since the case was at the stage of pronouncement of judgment, he did not consider it appropriate to grant stay of the proceedings in SC.No.166 of 2017.

While the submission of Sri G.Rama Sharma, learned counsel for the appellant, regarding non-compliance of Section 173(2)(ii) Cr.P.C. cannot be said to be without merit, an intra-

Court appeal, under Clause 15 of the Letters Patent, would not lie against the exercise of criminal jurisdiction by the learned Single Judge in view of the law laid down by the Supreme Court in **Ram Kishan Fauji v. State of Haryana**¹. As an appeal, against exercise of criminal jurisdiction by the learned Single Judge, would not lie under Clause 15 of the Letters Patent, we must express our inability to entertain the present appeal. We, however, make it clear that the order now passed by us shall not disable the petitioner from availing such other remedies as are available to him in law.

Subject to the above observations, the Writ Appeal fails and is, accordingly, dismissed. There shall be no order as to costs. Miscellaneous petitions, if any, pending shall stand dismissed.

(RAMESH RANGANATHAN, ACJ)

(J.UMA DEVI, J)

26th October 2017
RRB

¹ AIR 2017 SC 1535

