

**HON' BLE SRI JUSTICE GUDISEVA SHYAM PRASAD**

**WRIT PETITION No. 249 of 2016**

**ORDER:**

This writ petition is filed seeking a writ of mandamus, directing the respondents 1 to 4 to consider the representation of the petitioner dated 16.06.2014 requesting to release the recovered property by the 4<sup>th</sup> respondent-Police with regard to Crime No.1 of 2014 of Koyyalagudem P.S registered for the offence punishable under Sections 457 and 380 IPC.

2. The petitioner is Gollapalli Joseph Krupanidhi. He filed affidavit stating that he has submitted a representation dated 20.01.2014 to the respondent No.4 requesting to release the recovered property in respect of Crime No.1 of 2014. It is stated that the said representation was not considered by the police. It is further stated in the affidavit that the complainant came to know that the entire investigation has been completed but they have not returned the Gold and Silver ornaments recovered by them, and that the police have not given him proper information even after filing the charge sheet dated 30.06.2014 with regard to the property recovered from the petitioner. Therefore, the petitioner filed this petition seeking direction to the respondent No.4 to handover the property recovered from the petitioner.

3. Heard the arguments of learned counsel for the petitioner and the learned AGP (Home).

4. The main grievance of the petitioner is that he lodged a complaint in respect of theft committed in his house with regard to the 22 grams of Gold and Cash of Rs.40,000/- and other silver ornaments. Though he has lodged a complaint and investigation has been completed and charge sheet has been filed and the property has been recovered from the accused, the police are not returning the property to him. Therefore, he seeks direction to the police for return the property.

5. Learned AGP(Home), on written instructions, submits that on 16.02.2014, respondent police arrested the accused A1 and A2 at Chintalapudi Circle, along with two other accused at Mankinapalli Bus Stand in Crime No.18 of 2014 registered for the offence under Section 394 IPC of Tadikalapudi P.S. in the presence of mediators LWs.7 and 8 and got recorded the confessional statements. In the course of investigation, it is revealed that accused Nos.1 and 2 were involved in offences in Crime No.1 of 2014 and Crime No.2 of 2014 registered for the offences under Sections 457 and 380 IPC of Koyyalagudem P.S. and they have also confessed in their confessional statement that they have sold out their property to accused Nos.3 and 4. On 31.07.2014, the respondent police filed

memo before the Judicial Magistrate of First Class, Jangareddygudem, seeking custody of the accused in order to recover the stolen property. On 28.10.2015, the police arrested accused Nos.3 and 4 and recorded their confessional statement in the presence of mediators. It is revealed in the statements that they sold away their property to some unknown persons near Eluru Gold market and, therefore, respondent No.4 served notice under Section 41-A Cr.P.C. to the accused and released them. In this case, charge sheet has been filed before the Judicial Magistrate of First Class, Jangareddygudem and the C.C. was numbered.

6. Learned AGP (Home) further submits that no property has been recovered from the possession of accused Nos.1 to 4 and, therefore, no property is available to return to the petitioner pertaining to this case.

7. Learned counsel for the petitioner submits that the information received by him with regard to the recovery of 90% of the property from the accused is based on the oral assertions of the police and he has no material to show that there is any recovery from the accused.

8. Having regard to the facts and circumstances of the case, there is absolutely no material to show that there is recovery of property from accused Nos.1 to 4 in Crime No.1 of 2014.

However, it is obvious that investigation was completed and charge sheet has been filed in this case.

9. Learned counsel for the petitioner submits that the charge sheet was taken on file by the learned Magistrate and the trial has to take place. Learned counsel further submits that as per the contents of the charge sheet filed by the police, the accused Nos.1 and 2 took possession of the stolen Gold and silver ornaments and kept them with accused Nos.3 and 4. It is also mentioned in the charge sheet that as the police custody of accused Nos.1 and 2 was not given, the gold and silver ornaments could not be recovered. Accused Nos.3 and 4 are evading arrest and absconding by the date of filing of charge sheet.

10. Learned AGP(Home) submits that subsequently accused Nos.3 and 4 have been arrested on 28.10.2015 but no property has been seized from them as they have confessed that they have sold the property and, therefore, there is no recovery.

11. Having regard to the facts and circumstances of the case, since no property is available as per the submissions made by the learned AGP(Home), and as the learned Magistrate has taken the charge sheet on file and the trial has to take place, no cause is surviving in this writ petition for consideration. However, the learned Magistrate is directed to expedite trial in this matter. If

there is recovery of property from the accused in Crime No.1 of 2014, the same shall be returned to the petitioner on proper identification as per procedure.

12. Accordingly, the writ petition is disposed of with the above direction. No costs. Miscellaneous petitions, if any pending, shall stand closed.

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**GUDISEVA SHYAM PRASAD, J**

16<sup>th</sup> April, 2018

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