

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

Writ Petition No.5443 of 2018

Order:

Heard learned counsel for the petitioner.

It is the case of the petitioner, who is the *de facto* complainant, that the third respondent along with other accused attacked her on 27.08.2010 with an intention to kill her. She lodged a complaint with the second respondent on the same day. When the police did not include the name of the third respondent in the charge sheet, she filed a petition before the trial Court in CrI.M.P.No.4 of 2013 to add the third respondent herein who was arrayed as fifth respondent therein as accused in the case. The said application was dismissed by order dated 08.04.2013 giving liberty to the petitioner to move an application through the Additional Public Prosecutor, incharge of the case, if she so desires subject to the legal principles applicable to Section 319 Cr.P.C. The trial Court commented that the conduct of the *de facto* complainant in filing such a petition through a private counsel of her choice without permission from the Court is undesirable and improper. Thereafter, it appears that no steps were taken by the petitioner for filing an appropriate application as directed by the trial Court. The petitioner filed the present Writ Petition simply alleging that the investigating agency has not conducted proper investigation and placed the correct material which resulted in injustice to the petitioner.

When the application filed by the petitioner to add the third respondent herein as accused in the case was dismissed by the trial Court, the petitioner should have taken appropriate proceedings in accordance with the Code of Criminal Procedure and, having invited an order, cannot

take up the parallel proceedings in the present Writ Petition and seek the relief for including the third respondent as accused in the case. The Writ Petition is not maintainable in view of the availability of alternative remedies.

The Writ Petition is, accordingly, dismissed at the admission stage. There shall be no order as to costs.

As a sequel thereto, the miscellaneous petitions, if any, pending in this writ petition shall stand closed.

Date: 09.03.2018
Nsr

A.RAMALINGESWARA RAO, J

