

*THE HON' BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

*THE HON' BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

+WRIT PETITION No.8480 of 2018

%09-04-2017

Dr. Eunice Lalnunmawii Chawngthu
D/ o.Mr.C. Dohanga IPS,
Aged about 30 years, R/ o.5-9-22/ 60 A1,
Adarsh Nagar, Hyderabad.

.. Petitioner

Vs.

\$ The I Additional Chief Metropolitan Magistrate,
Nampally Criminal Courts, Hyderabad.

.. Respondent

! Counsel for petitioner : Dr. Eunice Lalnunmawii Chawngthu
(Party-in-Person)

^ Counsel for respondent : None

<GIST:

>HEAD NOTE:

? CASES REFERRED : ----



THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN
AND
THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.8480 of 2018

ORDER: (Per V.Ramasubramanian, J)

The petitioner has come up with the above writ petition seeking to issue a writ of mandamus to direct the respondent, namely, the I-Additional Chief Metropolitan Magistrate, Nampally, to take cognizance of the petitioner's complaint, dated 01.02.2018, for an alleged offence under Section 307 IPC.

2. Heard Dr.Eunice Lalnunmawii Chawngthu, appearing as party-in-person.

3. The grievance of the petitioner as projected in her affidavit in support of the writ petition is that the residents of a complex known as "Modi Nivas", are deliberately causing noise pollution, making themselves a public nuisance and disturbing the peace in the area since long, starting as early as 7.30 in the morning and continuing up to 21.30 hours at night. Therefore, the petitioner filed an oral complaint with the Inspector of Police, Saifabad, on the night of 31.01.2018 at 9.29 p.m. According to the petitioner, the Saifabad police did not pay heed to her complaint. Therefore, she made a call to phone No.100 on 01.02.2018 at 8.03 hours.

4. But, it appears that some policemen arrived in response to the phone call, but they did not take any action.

5. But, upon coming to know that the petitioner made a complaint, the residents of the said housing complex, allegedly conspired to take revenge upon the petitioner and according to the petitioner, some people tampered with the front right side wheel of her

car on 01.02.2018, which resulted in the petitioner losing control of the car which rolled down the steep incline.

5. Therefore, the petitioner claims to have gone to the Saifabad police station on 01.02.2018 at 11.00 hours and submitted a written compliant on the ground that there was an attempt to murder, punishable under Section 307 IPC.

6. The grievance of the petitioner is that without registering the said complaint, the police simply forwarded the same to the I-Additional Chief Metropolitan Magistrate and the I-Additional Chief Metropolitan Magistrate has been sitting on the complaint from 01.02.2018 without taking any action. The petitioner claims to have appeared before the respondent and made a request to take action. But, the respondent did not take any action, making the petitioner lose faith in the system before the respondent. Therefore, she has come up with the above writ petition.

7. But, unfortunately, for the petitioner, the petitioner has not followed the dicta of the Constitutional Bench of the Supreme Court in *Lalitha Kumari v. State of Uttar Pradesh*¹. If a complaint of a cognizable offence is made in writing to a police officer, he is obliged to register the FIR and investigate into the same. If he fails to do so, there are two different alternative courses of action open to a party. One is to move the High Court under Section 482 Cr.P.C., for a direction to the Inspector of Police. The other is to file a private complaint under Section 200 Cr.P.C., before the concerned Magistrate's Court. The petitioner has not done both.

8. On the contrary, the petitioner seeks a direction to the respondent to take cognizance of her complaint which was allegedly forwarded by the Circle Inspector, Saifabad. If the Circle Inspector,

¹ 2014 (2) SCC 1

Saifabad, without registering an FIR, has sent a copy of the complaint, it is not open to the Magistrate to take cognizance. Therefore, the prayer made by the petitioner in this case is misconceived. It is true that the police as well as the Courts are obliged to follow the dicta issued by the Supreme Court in Lalitha Kumari's case. But, to enable the police and the Courts to do their duties, the complainants should perform their duties first as directed in Lalitha Kumari's case.

9. Hence, the Writ Petition is dismissed. Consequently, miscellaneous petitions if any pending shall stand dismissed. No order as to costs.

V. RAMASUBRAMANIAN, J

ABHINAND KUMAR SHAVILI, J

April 09, 2018

KTL

