

THE HON'BLE SRI JUSTICE M. SEETHARAMA MURTI

WRIT PETITION No.11637 of 2018

ORDER:

This Writ Petition, under Article 226 of the Constitution of India, is filed by the petitioner seeking verbatim the following relief/s:

“..to issue a Writ order or direction, more particularly one in the nature of Writ Mandamus declaring the inaction of the 2 to 4th respondent in to conducting the investigation or Cr.No.79/2017 U/s.498A & 306 IPC of P.S.Tekulapally in fair and unbiased manner by a competent rank and further deliberately avoiding to supply the status of investigation including the copy of 161 Cr.P.C. Statements, FIR and Dying declaration of Petitioner's daughter, in order to shield the culpability of A1 to A5 as illegal, arbitrary, unjust and in utter violation of principles of natural justice and in derogation of Articles 14, 21 of the Constitution and Section 52, 91, 1 to 5 of Telangana State Police Manual and consequentially direct the 2nd respondent to reinvestigate the case in accordance with law and pass such other order.....”

2. I have heard the submissions of the learned counsel for the petitioner and of the learned Government Pleader for Home (T.G.) appearing for respondents 1 to 4. I have perused the material record.

3. Learned counsel for the petitioner having reiterated the pleaded case submitted as follows: “The petitioner is aggrieved of unfair investigation into the aforestated crime by the Investigating officer. He approached the 2nd respondent and gave a representation, dated 18.01.2018, to review the investigation and guide the investigating officer

and to see that the investigation is done in a proper manner and on proper lines. Copies of the said representation were also sent to the respondents 3 and 4. However, no corrective measures were taken and hence, the writ petition is filed to direct the 2nd respondent, the superior officer to reinvestigate into the subject crime.'

4. Learned Government pleader (Home), on oral instructions, submitted that investigation is being done on proper lines and in a fair manner and that the petitioner cannot seek the relief of reinvestigation by seeking a writ order and that if his grievance is that the investigation was not done on proper lines and if he wants reinvestigation by another superior officer, the remedy lies else where. He finally submitted that in view of the matrimonial disputes of the daughter of the petitioner, the writ petition is filed on mere apprehensions and on the basis of false and invented allegations.

5. I have given earnest consideration to the facts and submissions.

6. In the instant case, since the crime is registered on receipt of a report from the petitioner and an FIR was issued, the grievance is not with regard to non compliance of the precedential guidance in the decision in **Lalita Kumari v. Government of Uttar Pradesh & Others**¹ rendered by the constitution Bench of the Supreme Court wherein the Law in connection with the registration of crimes upon receiving of a complaint or a report is summarised. Had a crime not

¹ (2014) 2 Supreme Court Cases 1

been registered on the report/complaint of the petitioner, this Court would have directed the police officer to take suitable action following the guidelines in the above precedent. However, the request is to direct a superior police officer to conduct reinvestigation. For granting such an order, a detailed examination of the whole matter is essential. Such an exercise need not be undertaken in a writ proceeding of this nature more particularly when an efficacious remedy is available. The law is well settled that the police officers ought to register the FIR when the facts brought to their notice *prima facie* show commission of a cognizable offence; and, if the police officials fail to do so, the modalities to be adopted are set out in Section 190 read with 200 of CrPC. Further, if a person has a grievance either with regard to non registration of FIR under Section 154 of CrPC or that even after registering the FIR no proper investigation is being held, it is open to the aggrieved person to file an application under Section 156(3) CrPC before the learned Magistrate concerned; and, on filing of such an application, the learned Magistrate can direct an FIR to be registered, if not already registered, and also can direct a proper investigation to be made in case the grievance is that no proper investigation was being conducted. Further, the Magistrate can also under the same provision monitor the investigation to ensure a proper investigation. [See: **Aleque Padamsee v. Union of India² & Sakiri Vasu v. State of Uttar Pradesh & Others³**].

² (2007) 6 Supreme Court Cases 171

³ (2008) 2 Supreme Court Cases 409

7. In view of the facts & submissions and the legal position obtaining, the Writ Petition is disposed of reserving liberty to the petitioner to approach the learned Magistrate concerned and seek appropriate and necessary reliefs, which the law permits, by following the precedential guidance in the afore-stated decisions (2 & 3 supra) of the Supreme Court.

There shall be no order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

Date: 25.04.2018
Vjl

M. SEETHARAMA MURTI, J

