

THE HON'BLE SRI JUSTICE M. SEETHARAMA MURTI

WRIT PETITION No.13246 of 2018

ORDER:

In this writ petition, under Article 226 of the Constitution of India, the main grievance of the writ petitioner is in respect of the inaction on the part of the police officers, particularly, the Station House Officer, Ongole Taluk Police Station, Prakasam District, the third respondent herein, in registering a crime on the complaint, dated 30.03.2018, lodged by her against the fifth respondent and his family members and also against two Police Constables, who trespassed into her property and assisted in demolishing a wall at the instance of the fourth respondent-Circle Inspector of Police, Ongole Taluk Police Station. The petitioner further complains that no action has been taken in the matter by the police officers concerned, despite the fact that her complaint, dated 29.03.2018, was forwarded by the second respondent – Superintendent of Police, Ongole, Prakasam District *vide* C.C.C.No.807/2018C.Cell.

2. Heard learned counsel for the petitioner and learned Government Pleader for Home (A.P.) appearing for respondents 1 to 3. Perused the material record.

3. Learned counsel for the petitioner submits as follows: 'The police officers had illegally and highhandedly resorted to and are further resorting to unconstitutional acts and were and are interfering with the civil disputes. The police officers did not act on

the complaint, dated 30.03.2018, lodged by the petitioner against the fifth respondent and his family members and also against the police constables concerned. The police officer concerned also did not act upon the complaint, dated 29.03.2018, which was forwarded by the second respondent. The Inspector of Police, Ongole Taluk Police Station-the fourth respondent herein is assisting the fifth respondent. At his instance, the said two police constables trespassed into the land of the petitioner along with the 5th respondent and her family members and demolished a wall. The petitioner also filed photographs and a CD showing the presence of the constables in the premises of the petitioner. The incident was video-graphed by the daughter of the petitioner and was preserved in the said CD filed along with the material papers. In view of the illegal methods being adopted by the fourth respondent at the behest of the fifth respondent, the present writ petition is filed seeking the afore-stated relief.'

4. Learned Government Pleader for Home, on written instructions, dated 23.04.2018, a copy of which is placed on record, would submit as follows: 'Complaint, dated 29.03.2018, was forwarded by the Superintendent of Police, Ongole, Prakasam District, for enquiry and report. Accordingly, on the said complaint, dated 29.03.2018, the Inspector of Police and the Station House Officer, Ongole Taluk Police Station, conducted enquiry. Statements of four eyewitnesses mentioned by the petitioner were duly recorded. On recording of such statements, it was revealed that the

dispute between the petitioner and the fifth respondent is purely civil in nature. Then, the Blue Colts PC No.3541 advised them to approach a competent civil Court. The contents of the CD do not support the allegations of the petitioner. The enquiry disclosed that all the allegations in the complaint/representation, dated 29.03.2018, of the petitioner are false and baseless. Accordingly, the Inspector of Police and the Station House Officer, Ongole Taluk Police Station, submitted a report, dated 21.04.2018, to the Superintendent of Police, Ongole, Prakasam District. Thus, the allegations made by the petitioner in the complaints and also in the writ petition, are false. The same are invented for the sake of filing of the writ petition. Hence, the same are denied.'

5. I have given earnest consideration to the facts & submissions. On consideration of the submission that the incident, dated 29.03.2018, has been video-graphed by the daughter of the petitioner and that the CD filed with the material papers contains the details of the said incident and the fact that the photographs undisputedly disclose the presence of the police constables at the property of the petitioner at the relevant time, this Court finds that the petitioner made out a *prima facie* case. The fact that police constables entered into the property of the petitioner and indulged in certain acts is neither denied in the written instructions placed on record nor during the course of submissions that were made based on the written instructions. Whether the act of demolition of the Wall and the other allied acts were done as stated in the writ

petition, therefore, requires detailed investigation. Be that as it may. Without going into the merits of the matter, it is to be now examined as to whether the police officers concerned can be directed to take suitable action, in accordance with law, on the complaints of the petitioner.

6. The scope of the statutory obligation of the police to register an FIR upon receiving a complaint is no longer *res integra*. In *LALITA KUMARI V/s. GOVERNMENT OF UTTAR PRADESH*¹, the Supreme Court, speaking through a Constitution Bench, summarized the law in connection with the registration of crimes. In the light of the aforestated settled legal position, it is not open to the police authorities to deviate therefrom in taking appropriate necessary action after receiving a complaint alleging a cognizable criminal offence. In the event the offence alleged is a non-cognizable one, the police authorities are bound to follow the due procedure laid down in Section 155 Cr.P.C. In any event, the police authorities must take suitable action in the matter expeditiously.

7. Recording the submissions, and reiterating the precedential guidelines in the afore-stated decision of the Supreme Court, the writ petition is disposed of with the following directions:

“The Station House Officer, Ongole Taluk Police Station, Prakasam District, the third respondent herein, shall follow the due procedure established by law and the precedential guidelines in the aforestated decision of the Supreme Court, and take necessary

¹ (2014) 2 SCC 1

suitable action on the complaints, dated 29.03.2018 and 30.03.2018, of the petitioner forthwith.

The second respondent shall cause an enquiry to be made into the matter with regard to the acts alleged to have been committed by the fourth respondent and the police constables concerned, as expeditiously as possible, and preferably within three weeks from the date of receipt of a copy of this order.”

Liberty is also reserved to the petitioner to take any further action, which the law permits, insofar as the acts complained of against the fourth respondent and the police constables.

Pending miscellaneous petitions shall stand closed in the light of this final order. No order as to costs.

Date: 02.05.2018
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M. SEETHARAMA MURTI, J

