HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.21731 OF 2018

O R D E R :

This petition is filed for a writ of *Mandamus* declaring the action of the respondents in not transferring the Investigation in Crime No.126/2018 on the file of 6th respondent Police Station to CBCID, as illegal and arbitrary and for a consequential direction to the respondents 1 and 2 to transfer the said crime.

The case of the petitioner is that there are some disputes between him and 8th respondent; that when the relatives of the 8th respondent attacked the petitioner with iron rod and sticks and tried to murder him, he filed a complaint on 10.10.2017 against the 8th respondent. But, the same was registered by the respondent police under Section 448, 323, 324 and 506 IPC, instead of Section 307 IPC, in collusion with 8th respondent, in FIR No.137/2017 dated 11.10.2017. Then the petitioner approached this Court by filing WP.No.36203 of 2017 for protection of his life and this Court disposed of the same with a direction to consider the representation of the petitioner for police protection. Thereafter, when the petitioner approached the 6th respondent with a representation, the 6th respondent did not provide police protection to the petitioner with the grouse that the petitioner filed writ petition against him. Thereafter, the 6th respondent by colluding with the 8th respondent, raided on the petitioner's shop on 28.05.2018 and foisted a false 'ganjai' case against the petitioner. The grievance of the petitioner is that since

he filed WP.No.36203/2017, the 6th respondent is taking revenge on him by foisting false cases and that there is no chance of fair investigation, as such, he filed the present writ petition.

The 4th respondent filed counter stating that basing on the information about the unlawful activities of the petitioner at his shop, the 6th respondent inspected petitioner's shop on 29.05.2018 and having found in the said inspection 'Narcotic drug' i.e. Ganjai in possession of petitioner, registered a case in Crime No.126/2018 dated 30.05.2018 against the petitioner on the file of Penugonda Police Station and taken up the investigation. It is also stated that during the course of investigation 5 witnesses were examined and their statements were recorded; that the sample seized from the shop of the petitioner was sent for chemical analysis to the Prohibiton & Excise Laboratory, kakinada, which in its report confirmed that the sample seized is 'Ganjai'. It is further stated that the petitioner is a habitual offender and fourteen (14) criminal cases were registered against the petitioner; and that a Rowdy Sheet was also opened against the petitioner as per the orders of the Sub-Divisional Police Officer, Narasapuram, W.G.District.

Learned counsel for the petitioner submits that though the aforesaid fourteen cases referred in the counter were closed, the respondent police have falsely stated that the petitioner is involved in fourteen cases which itself goes to show that the 6th and 7th respondents are biased against the petitioner and filed counter

suppressing the facts. He also submits that there will not be fair investigation in the crime at the hands of respondents 6 and 7 who colluded with the 8th respondent and registered false cases since petitioner, earlier, filed writ petition No.13674/2012 against them. He also relied on the Judgment rendered by this Court in ***Shaik Abdulla Shareef and others v. Government of Andhra Pradesh*** [1]. He also submits that in similar circumstances this Court ordered for transfer of criminal case to CBCID.

On the other hand learned Assistant Government Pleader for Home submits that the investigation will be conducted under the supervision of Sub-Divisional Police Officer, Narsapur and 2nd respondent.

In this case it is to be seen that serious allegations are made against respondents 6 and 7. Even in the counter affidavit, the respondents have mentioned about 14 cases filed against the petitioner, but, in fact, by the time of filing counter all the 14 cases were closed. More so, already application filed by the petitioner dated 15.06.2018 is before the 2nd and 3rd respondents.

In view of the aforesaid facts and circumstances, the 2nd respondent is directed to consider the representation of the petitioner dated 15.06.2018, and take action within a period of three weeks from the date of receipt of a copy of this order, taking into account the aforesaid facts and also the Judgement reported

[1] 2010(2) ALD (Crl.) 789 (A.P.)

by this Court in ***Shaik Abdulla Shareef and others v. Government of Andhra Pradesh***.

Accordingly, the writ petition is disposed of. No order as to costs.

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

A.RAJASHEKER REDDY, J

20.08.2018
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