

HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

WRIT PETITION No. 861 of 2016

ORDER:

The petitioner seeks a writ of mandamus to declare the action of respondents, in not registering complaint dated 22.05.2014 against respondent No.5 and members of Aarya Vysya Sangam, Kodakandla Village and Mandal, Warangal District, for passing resolution dated 20.06.2010 of Kula Bahishkarana, as illegal and arbitrary.

Petitioner claims to be the resident of Kodakandla Village and Mandal, Warangal District and belong to Arya Vysya Community and running kirana shop. Some disputes arose in respect of division of immovable properties and when the caste elders of the Village called the petitioner to Ramalayam on 20.06.2010, he stated that *'if I have equal share in the joint family properties, then only he would sit in the panchayat for discussions, and stated to the caste elders not to act one side'*. Then the caste elders abused in filthy language and made assault in the temple premises. Petitioner states that the caste elders of Aarya Vysya Sangam of Kodakandla Village passed the resolution 'Kula Bahishkarana' mentioning as under:

"On 20.06.2010 in the presence of Kasturi Venkanna, President of Aarya Vysya Sangam, Sri Belide Venkanna (Venkateshwarlu) S/o. Belide Ramulu (Ramaiah) was left in the middle of panchayat against the elders. Hence today onwards Belide Venkateshwarlu S/o.Ramulu is eliminated from the Caste (Aarya Vysya Sabha) and as such from this onwards no one should attend any functions conducted by him and caste persons

should not invite Belide Venkateshwarlu. If anybody violated these conditions, the same action applies to them."

Petitioner states that, due to said resolution of 'Kula Bahishkarana', himself and his family members are facing severe mental agony and the caste elders have not stopped humiliating his family and, therefore, he lodged complaint dated 22.05.2014 with respondent No.2 but respondent No.2 has not taken any action on the complaint. Hence the Writ Petition.

Heard the learned counsel for the petitioner and learned Assistant Government Pleader for Home.

Learned Counsel for the petitioner submits that, though petitioner has lodged complaint, police have not registered the same and no action has been taken against respondent No.5.

Learned Assistant Government Pleader for Home submits that, since there are no ingredients to take cognizance of the offence, police have not taken cognizance of the complaint, and no offence has been registered. He further submits that the complaint was lodged in the year 2014 before the District Collector, Warangal District, and the present writ petition has been filed 1½ years after lodging the complaint and the delay of 1½ years has not been explained and, therefore, petitioner is not entitled to any relief in the writ petition.

A perusal of the complaint would reveal that the caste elders have decided that the petitioner and his family

members should be socially boycotted from the village (Kula Bahishkarana'. The allegation in the complaint is that they have abused the petitioner in filthy language and eliminated him from caste.

Learned Assistant Government Pleader for Home submits that the complaint does not disclose any cognizable offence having been made out and, as such, police could not have taken cognizance of the offence.

Section 154 Cr.P.C. contemplates that, the police concerned, if satisfied that such information discloses commission of a cognizable offence, shall either investigate the case himself or direct an investigation to be made by any police officer subordinate to him, in the manner provided by this Code. Sub-section (3) thereof contemplates that, any person, aggrieved by a refusal on the part of an officer incharge of a police station to record the information referred to in subsection (1), may send the substance of such information, in writing and by post, to the Superintendent of Police concerned who, if satisfied that such information discloses the commission of a cognizable offence, shall either investigate the case himself or direct an investigation to be made by any police officer subordinate to him, in the manner provided by this Code. The petitioner has not complied with sub-section (3) of Section 154 Cr.P.C. by sending the complaint by post instead he made a complaint to the District Collector, Warangal District who intturn referred the

complaint to the Superintendent of Police, Warangal District (respondent No.3). Petitioner's grievance is that, despite receipt of his complaint dated 22.05.2014 by respondent No.3, neither complaint was registered nor was respondent No.4 directed to investigate into the matter. It is obvious that petitioner has got effective remedy under Section 190 Cr.P.C. to file a private complaint before the Magistrate. Petitioner has since not exhausted the remedies available to him, this Court cannot issue a mandamus directing the police to register his complaint dated 22.05.2014.

The Writ Petition fails and is, accordingly, dismissed. Liberty is given to the petitioner to approach appropriate forum for redressal of his grievance.

Miscellaneous petitions, if any pending, shall stand closed.

GUDISEVA SHYAM PRASAD, J

Date:17.04.2018
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