

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF
ANDHRA PRADESH**

THE HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN

and

THE HON'BLE MS JUSTICE J. UMA DEVI

Writ Petition No.32634 of 2018

Date: 12-09-2018

Between:

Cherukuri Gopinath, S/o Rama Rao, aged 43 years,
Occ: Business, General Secretary, Hariharapuram
Colony Residents Welfare Association, Plot No.387,
Hariharapuram, Vanasthalipurama, Hyderabad.

... Petitioner

Vs.

The State of Telangana, represented by its
Principal Secretary, Home Department, Secretariat,
Hyderabad and 4 others

.. Respondents

For Appellant : Mrs. Ch. V. Prasad Babu

For Respondents : G.P. for Home (Telangana)

HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

HON'BLE MS. JUSTICE J. UMA DEVI

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ORDER: (V. Ramasubramanian, J)

Aggrieved by the rejection of a complaint filed under Section 200 of the Code of Criminal Procedure, 1973, the complainant has come up with the above writ petition.

2. Heard Mr. Ch. V. Prasad Babu, learned counsel for the revision petitioner. Learned Government Pleader for Home (TG) takes notice for respondents 1 to 3.

3. The petitioner herein filed a private complaint under Section 200 of the Code of Criminal Procedure before the VII Metropolitan Magistrate, Cyberabad at Hayathnagar. Whenever a complaint is filed under Section 200 Cr.P.C., the Magistrate has two options, the first being the reference of the complaint under Section 156 (3) Cr.P.C. to the jurisdictional police for investigation and reporting and the second option being, that of examining the *de facto* complainant and the witnesses and taking a decision whether to issue process or not.

4. In this case, what the Metropolitan Magistrate chose to do was to record the statement of three witnesses. It means the Magistrate was not inclined to refer the complaint to the concerned police under Section 156 (3) Cr.P.C.

5. After taking the statements of those three witnesses, the learned Judge dismissed the complaint without even numbering the

same. Aggrieved by such a procedure adopted by the Magistrate, the petitioner is before this court.

6. Though the procedure adopted by the Magistrate appears to be not in accordance with law, we do not wish to entertain the writ petition, as the petitioner has an effective alternative remedy under the Code of Criminal Procedure. Section 397 Cr.P.C. confers concurrent jurisdiction over the District Court as well as the High Court to revise any order passed by the Magistrate in any proceeding. There is no necessity that such a proceeding should have been numbered. Whether the failure to number the proceeding itself constitutes an illegality, is a question that can be examined in the revisional jurisdiction.

7. If the impugned order tantamounts to acquittal, the petitioner may also have another alternative remedy.

8. In the light of the fact that the petitioner has an effective alternative remedy under the Code itself, we dismiss the writ petition giving liberty to the petitioner to prosecute the alternative remedy available under the Code of Criminal Procedure. There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.

V. RAMASUBRAMANIAN, J

J. UMA DEVI, J

Date: 12-09-2018

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