

HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

WRIT PETITION No.4592 of 2016

ORDER:

Petitioner seeks a writ of mandamus declaring the action of respondent Nos.3 and 4, in not taking action against respondent No.6 in relation to Crime No.11 of 2016, is questioned in the Writ Petition as being illegal and arbitrary.

Brief facts of the case are that petitioner purchased four transport trucks in the year 2011 and hypothecated at L&T Finance Limited, Rajahmundry; thereafter, he paid regular instalments and cleared finance; the RTA, Bhimavaram, informed that L&T Finance Company was seeking fresh Registration Certificate for the above vehicles in the name of financier cancelling the existing RC; on raising objections, the RTA stopped financier's requisition; and, he, therefore, made a complaint to respondent No.5 in Crime No.78 of 2015. The grievance of the petitioner is that respondent No.5 (Station House Officer, II Town Police Station, Bhimavaram, West Godavari District) is not completing investigation and filing final report. Hence the Writ Petition.

Learned Assistant Government Pleader for Home (AP) refers to the counter affidavit of the Sub-Divisional Police Officer, Narsapur, West Godavari, wherein it is stated that, on 08.03.2016, the Inspector of Police, Bhimavaram,

referred the case as 'Refusing the Investigation' under Section 157(1)(b) Cr.P.C. due to lack of previous sanction for prosecution as required under Section 197(1)(b) Cr.P.C. and filed final report on the file of II Additional Judicial First Class Magistrate, Bhimavaram, because respondent No.6, against whom case was registered, was a public servant and previous sanction is a must to launch prosecution. She further refers to para 9 of the writ affidavit, wherein the petitioner averred that he filed another complaint before respondent No.5 – Police Station but respondent No.6 had not registered the same; he, therefore, made private complaint under Section 200 Cr.P.C; and the same was referred by Court to respondent No.5 – Police Station. She further submits that the private complaint lodged by the petitioner had been referred to police; the police registered the case in Crime No.11 of 2016; therefore, it is nothing but suppression of facts; and, on this ground, the Writ Petition is liable to be dismissed.

In the light of the submissions made by the learned Assistant Government Pleader for Home (AP), the contention of the petitioner that investigation has not been conducted by respondent No.5 is not correct. It is negatived by the contents in the counter affidavit wherein it is stated that Crime No.11 of 2016 has been registered by police and they have refused to investigate the matter in view of provisions under Section 157(1)(b) Cr.P.C. on the ground of

lack of previous sanction for prosecution as required under Section 197(1)(b) Cr.P.C., and filed final report before the II Additional Judicial First Class Magistrate. Therefore, it is not a fit case where petitioner is entitled for a direction to respondents to investigate into the matter. Since investigation has been completed and final report has been filed, nothing survives for consideration.

The Writ Petition is, accordingly, closed.

Miscellaneous petitions, if any pending, shall stand closed.

Date:26.04.2018
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GUDISEVA SHYAM PRASAD, J

