

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

WRIT PETITION No.32617 of 2018

ORDER:

This Writ Petition, under Article 226 of the Constitution of India, is filed by the petitioner complaining against the inaction on the part of the 3rd respondent-Station House Officer, II Town Police Station, Visakhapatnam, in acting upon the report, dated 17.05.2018, of the petitioner lodged with the said Officer and in registering a crime against the 4th respondent, as arbitrary, illegal, abdication of the statutory duty and violative of the Articles 14, 19 & 21 of the Constitution of India and consequently to direct the 3rd respondent to act upon the said report of the petitioner and do the needful in the matter.

2. I have heard the submissions of Sri *P.V.N.Kiran Kumar*, learned counsel appearing for the petitioner; and of the learned Government Pleader for Home (A.P.) appearing for the respondents 1 to 3. I have perused the material record.

3. At the hearing, learned counsel for the petitioner submitted that if a direction is given to the Police authorities to follow the guidelines in *Lalita Kumari Vs. Government of Uttar Pradesh*¹, the grievance of the writ petitioner stands redressed.

4. Learned Government Pleader for Home, on written instructions, dated 12.09.2018, a copy of which is placed on record, would submit that the present report is lodged by the petitioner as a counter blast to the case in Crime no.126 of 2018, registered for the offences punishable under Sections 353 & 506 of Indian Penal Code, 1860, on the file of the Station House Officer, II Town Police Station,

¹ (2014) 2 SCC 1

Visakhaaptnam City, and that the ACB Constable Nagaraju belongs to SC Mala community and, hence, the penal provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, are not attracted to the case on hand. However, he fairly submits that no crime has been registered and no FIR has been issued pursuant to the report of the petitioner.

5. Learned counsel for the petitioner, in reply, would submit that the report of the petitioner discloses commission of cognizable offences and, therefore, it is not open to the police authorities to deviate from the settled legal position in the afore-stated decision of the Supreme Court or to show any laxity in taking necessary appropriate action on receipt of the report of the petitioner, which discloses commission of a cognizable offence. He would further submit that in the event the offences alleged are non-cognizable, the police authorities are bound to follow the procedure under Section 155 of the Code of Criminal Procedure, 1973, and that in any event, the police authorities must take suitable action in the matter expeditiously.

6. Having regard to the submissions, the Writ Petition is disposed of directing the 3rd respondent to follow the precedential guidance in the decision in **Lalita Kumari's case** (supra 1) and do the needful in the matter, as expeditiously as possible.

There shall be no order as to costs.

Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

JUSTICE M. SEETHARAMA MURTI

Date: 14th September, 2018
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