

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

WRIT PETITION No.38075 of 2018

ORDER:

Heard learned counsel for the petitioner and the learned Government Pleader for Home, apart from perusing the entire material available on record.

When the matter is taken up, written instructions, dated 24.10.2018, furnished by the Inspector of Police, Adibatla Police Station, are placed on record by the learned Government Pleader. The said instructions, to the extent of their relevance to the present Writ Petition, are as under:

“One Sri Bollu Kumar, son of Yadaiah, resident of Maheswaram, has approached the police of Adibatla Police Station and lodged a complaint on 10.7.2018 stating that on 10.7.2017 at 13.30 hrs his father deceased by name BolluYadaiah was cultivating his agriculture land with one tractor bearing No.AP 28F 6348 and in the mean while the above said tractor was suddenly give a repair and called to JCB No.AP 22 M6 766 driver for removing the tractor and at that time accused driver of JCB has came there and pushed his tractor, meanwhile the JCB bucket was hit to his father head and as a result he fell down to his tractor right side rear tyre to field from the tractor and received severe injuries and succumbed on the spot. Hence, he requested to take necessary action as per law.

Basing on the contents of the above complaint, a case in Cr.No.185/2018 U/sec.304 (A) IPC dt.10.7.2018 was registered on the file of Adibatla Police Station and taken up the investigation into the case.

Till date, the whereabouts of the driver of the JCB No.AP 22 M6 766 are not known to the investigating agency who is responsible for the cause of the death of complainant's father. The investigating agency is trying to apprehend the driver of the JCB but no clues are forthcoming till date.

It came to light in the investigation that the owner of the JCB No.AP 22 M6 is the writ petitioner herein. When the investigating agency is trying to ask the petitioner about the whereabouts of the driver of the said vehicle and also the relevant documents of the said vehicle, the petitioner with a malafide intention to divert the attention of the investigating agency filed the present writ petition with and frivolous allegations.

It is humbly submitted that as of now, no case whatsoever was registered against the petitioner herein. To know the driver of the JCB (absconding since the date of commission of offence), this respondent is trying to ask the petitioner who the owner of the said JCB and got the relevant original documents, the petitioner hiding the particulars of the driver of the said JCB and also to save the skin of the driver, filed the present writ petition.

It is pertinent to submit that this respondent never interfered with the life and liberty of the petitioner herein. If any information is required from the petitioner herein about the offence, certainly, this respondent will take action by following due process of law.

It is respectfully submitted that if the investigation disclose about vehicle being driven by unauthorized person without license even the chances of owner being mulcted with criminal liability cannot be ruled out to put pressure on the investigating agency, the petitioner filed the present writ petition.

It is respectfully submitted that during the course of investigation it came to light that the petitioner herein has also vicarious liability on the part of the acts of the accused driver of the JCB. The petitioner appointed the driver (accused herein/absconding) who has got no valid license.

The allegation of the petitioner that this respondent police has taken away the original RC of the JCB the possession of the petitioner is absolutely false, baseless and hence denied.

It is pertinent to submit that instead of cooperating with the investigating agency by informing the whereabouts of his driver (accused), the petitioner rushed to this Hon'ble Court and filed the present writ petition with false and untenable allegations with an intention to hide the particulars of his driver and also relevant documents of the JCB.

When the investigation is under progress and it is pending for want of crucial evidence, at this stage, if any orders are

passed, taking advantage of the same, the petitioner may not cooperate with the investigating agency, thereby fair and impartial investigation cannot be conducted.

It is also pertinent to submit that if any involvement of the petitioner is proved during the course of investigation, certainly, this respondent will shown him as accused by following the due procedure”.

By placing on record the above written instructions Writ Petition is disposed of, directing the respondent-police authorities to act strictly in accordance with law. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this Writ Petition, shall stand closed.

08th November, 2018
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A.V. SESA SAI, J

