

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

Writ Petition No.38175 of 2018

ORDER:

The petitioner is the sole accused in Crime No.125 of 2017 dated 02.11.2017 registered for the offences punishable under Sections 420 & 409 IPC registered by the Kaligiri Police Station, SPSR Nellore District. The prayer in the writ petition reads as under:

“to issue an order or direction more particularly one in the nature of Writ of Mandamus to declare the action of the second respondent in issuing the impugned F.I.R. in Crime No.125/2017 for the offence under Sections 420 & 409 IPC on the false complaint of the third respondent and making further investigation of the matter by arresting the petitioner though the second respondent police have no jurisdiction to conduct investigation into the complaint of the second respondent and further though the police Pulgaon of State of Maharashtra have already conducted investigation into the complaint of the third respondent and rejected the same by way of final report dated 14.09.2017, as illegal, unlawful, arbitrary and against Article 21 of Indian Constitution and consequently direct the second respondent to reject the complaint of the third respondent for want of jurisdiction to conduct investigation and also on the ground that the complaint of the third respondent was already enquiry into by the Palgaon Police of State of Maharashtra and rejected the same, and pass such other order or orders which are necessary in the interest of justice.”

2. One of the contentions is that the cause of action arisen in registration of the crime within the State of Maharashtra and nothing within the State of Andhra Pradesh, particularly within the jurisdiction of Kaligiri Police Station, SPSR Nellore District. That is not left open by virtue of the specific wording of Section 156(2) Cr.P.C., but for if at all any cognizance taken to impugn the cognizance by invoking any of the provisions under Sections 177 to 199 Cr.P.C. for not even any part of the cause of action arisen within the police station jurisdiction supra. Thus, that contention is premature to raise and to consider.

3. Coming to the other contention that earlier the self-same *de facto* complainant-respondent No.3 to the writ petition approached the Maharashtra police i.e., Superintendent of Police, Wardha, Maharashtra State where the crime bearing No.448/SCCPL/2017-18 dated 12.07.2017 was registered from said report and final report is filed by referring as the dispute is of civil nature. It is not even case of it is hit by Section 300 Cr.P.C. or Article 20 of the Constitution of India, but for if at all to prosecute is any abuse of process, that too arisen only in the event of filing of final report from registration of crime perse is not illegal when once it is disclosing a cognizable offence, that too the earlier investigation not mentioned. Even from the present petition showing there was earlier investigation that itself not end all unless it shows that it relates to the self-same transaction covered by the present crime under investigation.

4. Having regard to the above, this Writ Petition is disposed of by left open such defence to the petitioner. He is given liberty to file the earlier investigation material of the respective police within the jurisdiction of the Superintendent of Police, Wardha, Maharashtra State, in referring allegedly the matter is of civil nature for consideration by the Station House Officer, Kaligiri Police Station, SPSR Nellore District as part of the present crime investigation to file the final report. Any further grievance of the petitioner is left open. Pending investigation of the crime, the petitioner shall not be arrested. However, it will not prevent the police to require presence of the

petitioner for the purpose of investigation and if the petitioner failed to attend, the police can invoke Section 41-A Cr.P.C., and also the guidelines as held by the Apex Court in **Arnesh Kumar Vs. State of Bihar**¹ for none of the offences are punishable above seven years. No costs.

Miscellaneous petitions pending, if any, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

15.11.2018
MVA



¹ (2014) 8 SCC 273