

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

WRIT PETITION No.40575 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 15.11.2018, furnished by the Station House Officer, Asifabad Police Station, Asifabad District, 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:

"It is submitted that the petitioner has filed a private complaint u/s 200 Cr.P.C. against 1) Chippa Manohar and 2) Ram Venu on the file of Hon'ble Prl. J.F.C.M. at Asifabad stating that he has a Plot in Sy.No.88 at Gadderagadi Shivar of Kyathanpally Gram Panchayat on the name of his mother Smt.Muktha Kalavathi. When disputes with regard to the said land arose between Ellanki Sathaiah, Ellanki Gopal, Srinivas and their men, he approached A-1, who is a known Advocate, to clarify the dispute. A-1 asked him to give Rs. 1.00 lakh to settle the dispute by filing a case and obtaining an order from the Hon'ble High Court. He paid the said amount to A-1 on 5.11.2014, but A-1 did not kept up his promise and on the other hand informed that his friend/A-2 would settle the matter out of Court. On 5.4.2015 both the accused came to his house and made believe him to give Rs.13.00 lakhs to settle the matter within few days. He paid Rs.5.00 lakhs to them. On 25.4.2015 both the accused came to his house and pressurised to pay Rs.5.00 lakhs as an advance to initiate the work. Accordingly, he paid the said house. But even after 2 years nothing was done by both the accused. Whenever he asked for return of money, the accused are threatening him and giving serious warnings. Further, A-2 threatening that he belongs to SC caste and he would file

atrocities case against him. He prayed the Hon'ble Court to punish the accused for the offences u/s 420, 406, 509 IPC.

It is submitted that the Hon'ble Court forwarded the petitioner's Private Complaint to the Police Station vide O.M.Dis.No.83/2017, dated 21.11.2017 for investigation and report as required u/s 156 (3) of Cr.P.C. Based on the above complaint, a case in Crime No.222/2017 u/s 447, 406, 509 IPC r/w 156 (3) Cr.P.C. dated 1.12.2017 was registered and took up for investigation.

During the course of investigation, the Police examined and recorded the statements of L.Ws.1 and 2. Subsequently, proceeded to the scene of offence situated at Bapunagar, Asifabad at the house of the complainant and recorded the statements of L.Ws. 3 to 5. Later summons two panchas, noted details in crime details form, drawn rough sketch of scene of offence. Thereafter visited the second scene of offence situated at Gadderagad village, Mandamarri Mandal at the disputed land of complainant, summoned two panchas, noted details in crime details form, drawn rough sketch of the scene of offence.

As per the statements of witnesses and evidence, it is revealed that there are no written documentary evidence with the complainant and only on oral agreement the complainant gave money to the accused. L.Ws.3 to 5 are well wishers and family friends of L.Ws.1 and 2. In this case, the complainant has not produced any documentary evidence. The investigation also shows that it is a financial matter and civil in nature. Further, the disputed land is situated at Gadderagadi village, which is not within the jurisdiction of Asifabad Police Station. After completion of investigation, the SDPO, Asifabad was requested to accord permission to file Final Report. The SDPO Asifabad vide Proceedings C.No.1128/SDPO.Asf/2018, dated 2.9.2018 accorded permission to refer the case as 'civil in nature'. On the same day, notice of intimation was given to the petitioner/complainant under acknowledgment and consequently the Final Report was filed before the Court of Hon'ble J.F.C.M. at Asifabad on 2.9.2018 referring the case as civil in nature.

In view of the above mentioned facts, it is submitted that, it is not correct to contend that the Police have not filed Final Report Crime No.222/2017 u/s 447, 406, 509 IPC r/w 156 (3) Cr.P.C. dated 1.12.2017. It is submitted that the Writ Petition is devoid of any merits and it is liable to be dismissed".

Eventually a request is made by the learned counsel for the petitioner to dispose of the Writ Petition by placing on record the above instructions.

Accordingly, by placing on record the above written instructions, this Writ Petition is disposed of, leaving it open for the petitioner herein to avail the other remedies open in accordance with law. There shall be no order as to costs.

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

03rd December, 2018
Tsy

A.V. SETHA SAI, J

