

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

W.P.No.38112 of 2017

ORDER:

This writ petition is filed under Article 226 of the Constitution of India, with the following prayer:

“To issue a Writ Order or Direction more particularly a Writ in the nature of Mandamus declaring the action of the respondents 1 and 2 in not taking any action against the 4th respondent even though the petitioner has given complaint to the respondents through G-mail against the harassment made by him as illegal arbitrary unjust abuse of process of law and consequently direct the respondents 1 and 2 to take appropriate action against the 4th respondent basing on the complaint given by the petitioner through G-mail in the interest of justice”.

2. A counter affidavit deposited by the Commissioner of Police, Visakhapatnam City-3rd respondent herein is filed. Paragraphs 3 and 4 of the counter affidavit read as under:

“3. In reply to paras 3 to 5 of the affidavit, it is submitted that all the contentions of the petitioner are not correct, except the facts admitted herein. It is submitted that prior to occupying the present house, the petitioner resided at another house for rent at Satyanagar, Visakhapatnam. It is true that there was a dispute between the petitioner as a tenant with his previous house owner, while he was residing at Satyanagar, regarding vacation of the house by the petitioner and in that connection both parties approached Kancharapalem P.S. It was advised by police to settle the matter among themselves as the dispute is civil in nature. Accordingly, the matter was settled and the petitioner vacated the said house on his own accord. In view of that, the allegation of the petitioner that no action was taken by the police against the house owner and forced the petitioner to vacate the premises, is totally false and baseless.

4. It is submitted that on 01.09.2017 the petitioner lodged a written complaint at the Airport PS against his house owner, §-iis-tu Nageswar Rao, and his family members, alleging that they have trespassed into their house and threatened with dire consequences. Basing on that, a case in Cr.No. 350/2017, u/s. 447, 506 r/w. 34 IPC, was registered at Airport P.S. It is submitted that immediately after registration of the case, investigation was taken up and the investigating officer visited the alleged scene of offence and examined (5) witnesses, i.e. LWs.1 to 5 and recorded their statements. The investigation disclosed that some of the women in that area went to the house of the petitioner and invited them to 'Amma Bhagavan Pooja' for which they refused to attend the Pooja on the ground that they have no belief in such pooja. In such circumstances, there was a heated argument and exchange of words between both the parties and the neighbouring persons have pacified the situation. It is submitted that no incriminating evidence was made out in support of the allegations of the petitioner. Considering evidence adduced in the evidence, no prima-facie case was established against the accused in the crime. Thereon, the investigating officer has referred the case as 'False' with the permission of the Asst. Commissioner of Police, West Sub-Division, Visakhapatnam City vide C.No.859/Refer/ACP-2/2017, dt. 29.11.2017. Even then, the petitioner alleged in the writ petition that, though the police registered the case, failed to take any further action and even though they approached to the police and when requested to take action, the police failed to take any action against the accused pursuant to the registration of case, which is incorrect and untenable".

2. Having regard to the contents in the above said paragraphs, this Court is of the opinion that no cause of action survives in the writ petition. Accordingly, the writ petition is closed. As a sequel, miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.

A.V.SESHA SAI, J

Date:10.12.2018
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THE HON'BLE SRI JUSTICE A.V.SESHA SAI



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Dated: 10.12.2018

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