

THE HON'BLE DR. JUSTICE B.SIVA SANKARA RAO

WRIT PETITION No.1835 OF 2019

ORDER:

The petitioner is undisputedly the accused in Crime No.15 of 2018 of Alwal Police Station, Cyberabad, registered for the offences punishable under Sections 465, 468 & 471 of Indian Penal Code, dated 10.01.2018, from the report of one Keten Sanghavi.

2. Heard learned counsel for the petitioner and the learned Government Pleader for Home representing the respondents 1 & 2 and perused the material on record.

3. The report reads that they applied for sanction of residential building at Hasmathpet *vide* File No.14654/23/03/2015/HO through their Licensed Agency M/s.VMV Consultants, represented by one Madhu and as per his submission of fees letter provided by him, they arranged DD/Cash for payment of Rs.76,95,797/- to Greater Hyderabad Municipal Corporation (for short, 'GHMC') for sanction purpose of the building and demand drafts produced from various banks with various denomination totalling the amount and hand over to the consultant and they were provided with a sanction plan duly complied in all respects in June, 2016. On 08.01.2018, to their shock they served final notice and on contacting Mr.Madhu of VMV Consultants, he admitted to the fact that this was a forged sanction plan and the demand drafts were misused for some other files and the GHMC officials demolished the building of the *de facto* complainant citing it as illegal construction and this resulted in great loss and mental agony and they constrained to put themselves in a poor life and they are merely bound to deliver a good clear property to the prospective clients and as Madhu deceived them and cheated them with great

inconvenience and they were at cross roads, requested to take action against said Madhu and M/s.VMV Consultants.

4. The prayer in the writ petition reads as follows:

“For the reasons mentioned in the accompanying affidavit, it is humbly prayed that this Hon’ble Court be pleased issue an appropriate Writ, order or direction, more particularly one in the nature of Writ of Mandamus declaring the action of the Respondent No.2 in harassing the petitioner herein by illegally demanding to pay and settle the dispute with the Respondent No.3 or else face illegal detention and a spate of false criminal cases as illegal, arbitrary, unjust, improper and violative of freedom of liberty guaranteed Under Article 21 of the Constitution of India and also against the principles of natural justice and also this Hon’ble Court be pleased Quash the proceedings in Crime No.15 of 2018, P.S. Alwal or any other case registered under the same complaint and pass such other order or orders as this Hon’ble Court deems fit and proper in the interest of justice and circumstances of the case.”

5. The supporting affidavit, particularly from para 5 onwards in this regard speaks that he came to know of the registration of the crime against him and obtained anticipatory bail in CrI.P.No.1085 of 2018, dated 07.02.2018, and the 2nd respondent – Inspector of Police, Alwal Police Station, Ranga Reddy District, is acting at the behest of the 3rd respondent/*de facto* complainant and they are colluding together in shifting blame on him to get rid of their illegal acts and the police are unnecessarily calling him to the Alwal Police Station including at odd hours and made him to sit for hours without reason for the last two to three months making him unbearable with their harassment and the 2nd respondent - Inspector of Police, Alwal Police Station, Ranga Reddy District, told him several times to settle the matter with 3rd respondent/*de facto* complainant, else to file charge sheet against him in this crime *vis-à-vis* another Crime No.20 of 2018 of the same Police Station wherein also he obtained anticipatory bail and by threatening to shift the blame on him. It is further averred in the supporting affidavit

that the allegation in the FIR is false and he is a Licensed Structural Engineer and his job is only to the extent of making sanction plan, which is to be submitted to GHMC for approval and no role to play for alleged fraud committed by 3rd respondent and 3rd respondent failed to mention about any of the writ petitions filed by him or on his behalf in his complaint and he has not received any amount of Rs.76,95,797/- from 3rd respondent by cash or demand draft and he only received his fees of Rs.10,000/- along with sanctioned plan submitted to GHMC. The 2nd respondent is supposed to conduct impartial investigation. That on 21.01.2019 at about 6.00 a.m., one Constable - Dayakar Reddy of Alwal Police Station, on instructions of 2nd respondent - M.Mattaiah, came to him with 3rd respondent/*de facto* complainant to attend the Police Station to pay and settle the matter, else spate of criminal cases would be filed against him. So far as that allegation concerned, he is once undisputedly accused of Crime No.15 for the offences referred supra, it is a matter of investigation by Police and calling him for purpose of investigation by itself cannot be, that too from that specific instance found fault and so far as the vague allegations and for the last two to three months, Police are calling and harassing by retaining in odd hours concerned, but for the affidavit, there is no any supporting material, much less with any specific instances of any date and time. Leave it as it is. The Police have no right to unnecessarily harass any citizen including an accused and it is their duty to investigate the crime pending with them and file final report and if at all anything required of the personal appearance by virtue of this order in this crime, they shall serve notice in writing to the accused/petitioner, without which they cannot frequently call him and so far as the quashing of FIR concerned, the so-called mere delay by itself is not sufficient to quash the FIR, that too when there is a sustainable allegation and what he contended of he

did not receive the amount, is a matter of defence and any such thing, he can submit in writing as a statement to the Police to consider as part of the investigation.

6. With these observations, for there is nothing to quash the crime proceedings, the Writ Petition is disposed of, based on the written instructions of the learned Government Pleader for respondents 1 & 2, before notice to the 3rd respondent/*de facto* complainant.

Miscellaneous petitions pending consideration, if any, in this case shall stand closed in consequence.

DR.B.SIVA SANKARA RAO, J

Date: 1st February, 2019

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