

THE HONOURABLE SRI JUSTICE P. KESHA RAO

WRIT PETITION No.14420 of 2014

ORDER:

Heard learned counsel for the petitioner as well as learned Government Pleader appearing for the respondents 1 to 4.

2. The prayer sought in the writ petition is as under:-

“... to issue a Writ, Order or Direction, more particularly a Writ in the nature of Mandamus declaring the action of the respondents 1 to 5 in not taking any further action against respondent no.6 and her henchmen in pursuance of registration of FIR No.174/2014 for the offences u/sec.448, 380 of IPC on the file of P.S.Neredmet, Cyberabad District and not depositing the stolen property of the petitioner before the concerned court by taking necessary steps for the peaceful living of the petitioner and his son in the premises mentioned in the cause title as illegal, arbitrary, abuse of process of law and against the provisions of criminal law and violative of Articles 14 and 16 of Constitution of India and consequently direct the respondents 1 to 5 to recover all the stolen property from the 6th respondent and her henchmen by making inventory in the presence of petitioner and his son and deposit the same before the concerned court by further directing the respondents 1 to 5 to take steps for the peaceful living of the petitioner and his son in the premises mentioned in the cause title in the interest of justice and pass such other order or orders as this Hon’ble court may deem fit and proper in the circumstances of the case.”

3. The 3rd respondent filed a counter-affidavit denying the averments made in the affidavit filed in support of the writ petition and contended *inter alia* that pursuant to the complaint lodged by the petitioner, a case in Crime No.174 of 2014 for the offences under Sections 448 and 380 IPC was registered against the 6th respondent and one S.Siryala (A.1 and A.2) on the file of the Neredmet Police Station and investigation was taken up. Learned Government Pleader also brought to the notice of this Court that after completion of investigation, a charge sheet was filed before the learned XIX

Metropolitan Magistrate, Malkajgiri. After taking cognizance of the offence, the same is taken on file as C.C.No.901 of 2015, which is pending trial.

4. The petitioner has not filed any reply affidavit rebutting the averments made in the counter-affidavit and thereby, the averments goes un-rebutted and binding on the petitioner.

5. However, learned counsel appearing for the petitioner contends that some important items, such as, laptop, property documents and passport copy of the petitioner are not shown as recovered articles. As far as that aspect is concerned, this Court cannot go into the disputed questions of the fact in a writ petition filed under Article 226 of the Constitution of India. Since charge sheet is already filed, it is open for the petitioner to raise his objections by moving an application before the concerned Magistrate.

6. In these circumstances, the writ petition is disposed of giving liberty to the petitioner to raise his objections on the charge sheet filed by the respondent police in Crime No.174 of 2014 by way of a protest application, as per law. No order as to costs.

As a sequel, miscellaneous petitions pending, if any, shall stand closed.

P. KESHAVA RAO, J

19th December 2019

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