

THE HONOURABLE SRI JUSTICE T. VINOD KUMAR

WRIT PETITION NO.15201 OF 2019

ORDER:

This Writ Petition is filed to declare the action of the respondents in particular respondent No.4, the Station House Officer, police station Zaheerabad Town, Sangareddy District, Telangana in not filing the final report/charge sheet in Crime No.41 of 2018 dated 03.03.2018 of police station Zaheerabad Town pending on the file of Judicial Magistrate of I Class at Zaheerabad as being illegal, arbitrary and contrary to the provisions of Section 173 Cr.P.C.

Heard learned counsel for the petitioner and learned Assistant Government Pleader for Home.

The case of the petitioner is that he is the owner of a house bearing Municipal No.2-1-318 situated at Subhash Gunj, Zaheerabad. The said house was let out to one G. Jagan Mohan Reddy for being used as a residential house. However, the petitioner learnt that the said G. Jagan Mohan Reddy along with his brother had opened a medical shop in two rooms on the front side of the house and also converted the other part of the house into a children clinic, contrary to the purpose for which the house was let out. It is the further case of the petitioner that G. Jagan Mohan Reddy forged the signatures of the petitioner in a document prepared on Rs.20/- of non-judicial stamp paper termed as declaration dated 02.01.2013 and used the same to obtain licence to run the medical shop. Having noticed that the said tenant forged the signature of the petitioner, the petitioner initially

approached the 4th respondent making a complaint and on the refusal of the 4th respondent to take the said complaint, the petitioner also approached the respondents 2 and 3 who also refused to entertain the complaint. Having failed to have his complaint registered with the police authorities, the petitioner filed a private complaint under Section 200 Cr.P.C. before the Judicial Magistrate of I Class at Zaheerabad who was pleased to refer the same to the 4th respondent. It is only after the said complaint being forwarded by the Judicial Magistrate of I Class, the 4th respondent registered a case in Crime No.41 of 2018 dated 03.03.2018 against G. Jagan Mohan Reddy and his brother M. Venkateswar Reddy under the provisions of Sections 420, 427, 465, 471, 504 and 506 of IPC .

The further grievance of the petitioner is that despite the crime being registered on 03.03.2018, the respondents 3 and 4 did not take any further action thereon promptly and have been delaying the investigation into the matter. It is further pleaded by the petitioner that on two occasions in order to ascertain the status of the case as to whether the respondents filed the charge sheet or not, the petitioner filed copy applications vide C.A. No.901 of 2018 dated 14.07.2018 and C.A. No.1317 of 2018 on 22.11.2018 before the concerned court and the above two copy applications were returned by the learned Magistrate with an endorsement that final report has not been filed by the police. Basing on the return of the copy application, the petitioner alleges inaction on the part of the respondents 3 and 4 in filing a final report by investigating into the crime, as being contrary to the provisions of Section 173 Cr.P.C, and hence this Writ Petition.

Opposing the said writ averments, counter-affidavit has been filed on behalf of the 4th respondent. In the counter affidavit, it is stated that the 4th respondent authority has registered the case as crime No.41 of 2018 on the same being referred by the Judicial Magistrate of I Class, Zaheerabad and investigation had been taken up by the officer to whom the said case was entrusted. In the counter-affidavit, it is stated by the 4th respondent that in the course of investigation, three witnesses were examined and recorded their detailed statements. During the course of such investigation, it revealed that the tenant had lodged a complaint on 09.09.2016 against the petitioner for attacking him, which is registered as a case in Crime No.237 of 2016, and the charge sheet was also filed therein and the case is pending trial against the petitioner in C.C. No.34 of 2017.

The investigation conducted in the case registered at the behest of the petitioner in Crime No.41 of 2018 revealed that the complaint made by the petitioner is in the nature of a counter case against the defacto-complainant in C.C. No.237 of 2016 registered against the petitioner. Further, the investigation also revealed that the present complaint which the petitioner got referred through Court is falsely foisted and there being civil disputes between the complainant and accused person, the 4th respondent after obtaining the permission from the Sub-Divisional Police Officer, Zaheerabad referred the case as civil in nature vide proceedings No.148/per/SD-ZHB/2018 dated 30.03.2018 after serving a notice to the petitioner herein on 23.07.2019 and also filed a final report before the Judicial Magistrate of I Class, Zaheerabad on 24.07.2019.

It is contended by the learned counsel for the petitioner that the authorities filed the final report only after the petitioner approaching this Court on 19.07.2019 and pleads that the court should take note of the same.

On the other hand, the learned Government Pleader for Home submits that the petitioner has approached this Court by suppressing the fact of the pendency of case registered against him and since the petitioner is guilty of suppression, no relief can be granted. He would also further submit that since the grievance of the petitioner stands redressed in view of the filing of the final report before the concerned Judicial Magistrate of I Class, Zaheerabad on 24.07.2019, after issuing a notice to the petitioner, the petitioner can approach the concerned Court to avail remedies in accordance with law and no further orders are required to be passed by this court in exercise of jurisdiction under Article 226 of the Constitution of India.

Having given due consideration to the submissions made on both sides, it is seen that the petitioner approached this Court on 19.07.2019 for the relief sought for in the Writ Petition, and within five days from the date of filing of the writ petition, the 4th respondent had filed the final report before the concerned court. Thus, the grievance of the petitioner stands duly redressed. With regard to the delay on the part of the 4th respondent in filing the final report before the concerned court, on the basis of which the petitioner urges this Court to allow the Writ Petition appears to be far fetched.

Further, from the counter-affidavit filed, it reveals that the authorities could not have closed the case within five days from the date of filing the writ petition if the matter was not investigated into earlier. The 4th respondent in his counter-affidavit has categorically stated that after the case being registered on 03.03.2018, the authorities conducted investigation into the matter and recorded the statements of three witnesses and also obtained permission from the Sub-Divisional Police Officer, Zaheerabad to refer the case as civil in nature. The above said actions of the 4th respondent would show that the said respondent had investigated into the case registered and having come to the conclusion that it is civil in nature, also obtained permission from the higher authority as required. However, the 4th respondent failed to file the report before the concerned court immediately thereafter which can at the most be considered as a procedural irregularity.

Further, the provisions of Section 173 Cr.P.C only mentions that the investigation shall be completed without unnecessary delay and upon such completion of investigation, the officer incharge of the police station shall forward the report to the concerned Magistrate, mentioning therein, the details as specified under Section 173(2)(i)(a to g) of Cr.P.C. Having regard to the details specified in the counter-affidavit filed on behalf of Respondent No.4 and the requirements of Section 173(2) Cr.P.C. the same could not have been done overnight as sought to be contended by the counsel for the petitioner in view of the findings recorded above. As observed hereinabove, though there is a delay on the part of the 4th respondent in filing the final report into the

concerned court, in the absence of any particular time frame being stipulated under the provisions of Section 173(2), such delay in the facts of the case can only be considered as a procedural irregularity on the part of the 4th respondent which would not vitiate the final report that has been filed into the court.

Having regard to the facts of the case and conclusions arrived at as above, this court is of the view that inasmuch as the final report has already filed in Crime No.237 of 2016 before the Judicial Magistrate of I Class, it is open for the petitioner to approach the concerned court to avail the remedies in accordance with law, if the petitioner is aggrieved by the final report that is filed into the court.

Accordingly, subject to the above observations, the Writ Petition is closed. No order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

JUSTICE T. VINOD KUMAR

Date: 04.12.2019
MRKR