

THE HON'BLE SRI JUSTICE P. KESHA RAO

WRIT PETITION No.26382 of 2012

ORDER:

Heard the learned counsel for the petitioner as well as learned Assistant Government Pleader for Home appearing for respondents 1 to 9.

2. The prayer sought for in the Writ Petition is as under:

“to issue a Writ or Order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondent Nos.5 to 9 in settling the civil disputes by forcibly seizing the 12 buses as detailed in the Annexure and handing over the same to the respondents 17 and 18, is illegal, arbitrary and violative of Articles 14, 19 (1) (g), 21 and 300-A of the Constitution of India, apart from being violative of principles of natural justice and consequently direct the respondents 5 to 9 not to interfere with the civil disputes between the petitioner and the respondents 17 and 18 and consequently direct the respondent No.1 to pay the damages to the petitioner at Rs.3,00,000/- per day from the date of seizure of the vehicles till the date of return of the same to the petitioner.”

3. Respondent No.5 filed counter-affidavit denying the averments made in the affidavit filed in support of the petition and contending *inter alia* that the 19th respondent herein lodged a complaint on 02.05.2012 stating that the petitioner herein and others stopped his bus bearing No.AP-28-TA-3969 at R.S.Brothers Bus stop, KPHB Colony and beat the two Drivers namely Madhusudhan and Vishwanath and abused them in vulgar language. Pursuant to the said complaint, a case in Crime No.347 of 2012 for the offences punishable under Sections 341 and 323 read with 34 I.P.C on the file of KPHB Police Station was registered and investigation was taken up. During the course of investigation, the Investigating Officer

examined the 19th respondent, who is the complainant and other witnesses and recorded their detailed statements. It is also stated that as per the evidence collected, *prima facie* case is made out against the petitioner for the offences punishable under Sections 341 and 323 I.P.C. While the investigation was under progress, the petitioner himself surrendered on the file of Court of IX Metropolitan Magistrate, Kukatpally at Miyapur on 06.07.2012 and he was enlarged on bail. After completion of investigation, a final report was filed before the Court concerned on 27.07.2012 and the same was taken on file vide C.C.No.1872 of 2012, which is pending trial. The petitioner herein also filed a private complaint under Section 200 Cr.P.C. on the file of Court of IX Metropolitan Magistrate, Kukatpally, against unofficial respondents 17 to 21. Upon receipt of the said private complaint, the learned Magistrate referred the said complaint under Section 156 (3) Cr.P.C. to the Station House Officer, KPHB Colony, Cyberabad, for investigation. On receipt of the said complaint from the Court concerned, a case in Crime No.532 of 2012 for the offences punishable under Sections 109, 341, 350, 384 and 120-B read with 34 I.P.C. was registered on 03.07.2012. In the said crime, the unofficial respondents 17 to 21 were shown as accused. From the contents of the said complaint, it appears that there are disputes between the petitioner/complainant and that of the unofficial respondents 17 to 21. They are illegally interfering with his business activities, for which he filed a suit in O.S.No.346 of 2012 on the file of I Additional District Judge, Ranga Reddy District, for permanent injunction from interfering with his 14 vehicles and to return the original signed blank white papers and original permits of the vehicles. The learned I Additional District Judge on 15.04.2012

granted *ex parte ad-interim* order to maintain *status quo*. The said suit is still pending.

4. The unofficial respondents 17 to 21 having come to know about filing of the above suit, invited the petitioner for negotiations. But, instead of negotiations, again committed another crime of obtaining his signatures on blank Rs.100/- as well as Rs.30/- blank non-judicial stamp papers with the active participation and aid and help of unofficial respondents 19 to 21. During the course of investigation, though the Investigating Officer issued notices on 04.07.2012, 15.07.2012 and 31.7.2012 to the petitioner under Section 91/160 Cr.P.C, the petitioner did not approach the Investigating Agency for the reasons best known to him, did not give any statement nor produce any documentary evidence or cited any witnesses in his private complaint. Because of non-co-operation of the petitioner, the investigation is still pending.

5. Even from the contents of the affidavit filed in support of the writ petition, it is crystal clear that there are private disputes between the petitioner and the unofficial respondents 17 to 21. Pursuant to which, the petitioner was constrained to file a suit in O.S.No.346 of 2012 for injunction simplicitor on the file of I Additional District Judge, Ranga Reddy District. Therefore, the said disputes cannot be decided in a writ petition filed under Article 226 of the Constitution of India. That apart, when the petitioner has already filed a suit in a competent Civil Court for adjudication of the disputes referred in the present writ petition, this Court is of the opinion that the petitioner can workout his remedies in the suit filed by him.

6. With the said observation, the Writ Petition is closed.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed. There shall be no order as to costs.

JUSTICE P. KESHAVA RAO

1st October, 2019

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THE HON'BLE SRI JUSTICE P. KESHA RAO



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Date: 01.10.2019

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