

HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION NO.48030 OF 2018

Date: 01.05.2019

Between:

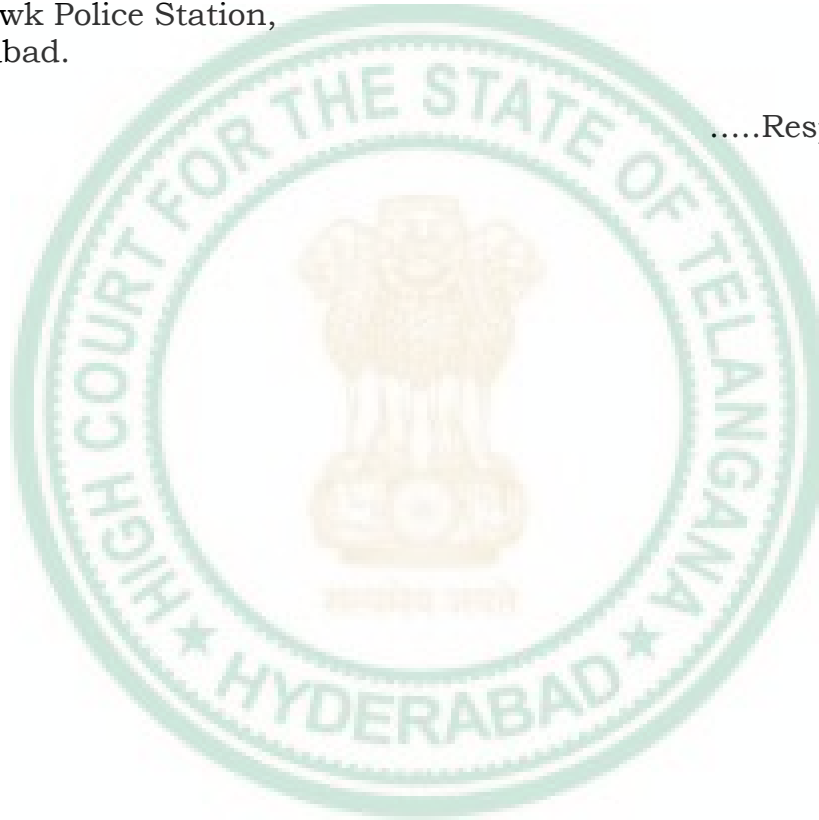
Dr. Eunice Lalnummawii Chawngthu,
D/o Mr. C.dothanga, Aged about 30 years,
C/o. O/o B.Satish Kumar, Nimboli Adda,
Kachiguda, Hyderabad.

.....Petitioner

and

The Station House Officer,
Mirchowk Police Station,
Hyderabad.

.....Respondent



The Court made the following:

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ORDER:

Petitioner argued in person and learned Government Pleader made submissions on behalf of respondent-Station House Officer.

2. Petitioner alleges that while she was standing opposite to the main gate, besides statute of lady Justice in the Hyderabad City Civil Court complex, on 28.11.2018 at about 1.40 p.m., person by name, Nisaruddin Ahmed Jeddy, appeared out of nowhere and without any provocation used un-parliamentary language against petitioner, punched on her face, attacked the petitioner again and again and molested her. Petitioner shouted for help and soon some people came and managed to control the accused. Petitioner lodged written complaint in Mirchowk Police Station. Petitioner contends that report of medical examination in Osmania Medical hospital confirmed that petitioner suffered swelling in her left eyelid and on her face. Petitioner alleges that respondent resisted to register the crime, but finally registered as Crime No.219 of 2018 under Sections 307, 323, 354, 504 and 506 IPC. She further contended that on 29.11.2018, the very same accused made an attempt on her life, criminally intimidated, and threatened to see her end for daring to file complaint against him. Petitioner was therefore constrained to file another written complaint. She also sent a copy of her social status by way of Whats-App to the Assistant Commissioner of Police, Mirchowk Police Station, but FIR No.221 of 2018 was registered under watered down provisions of the Scheduled Castes and Tribes (Prevention of Atrocities) Act, 1989 (Act, 1989). In this Writ Petition, petitioner prays to issue

direction to the respondent to arrest the accused expeditiously, to direct the respondent to register the crime under relevant sections of the Act and give his report within two days from the date of pronouncement of the order by the Court.

3. Party-in-person asserted that only in order to favour the accused, water down provisions are included and there is no progress in enquiring into the matter. She further contended that as crimes were registered and crimes reported are heinous, the accused ought to have been arrested. Accused is very much available and is roaming around, and for no valid reasons he was not arrested. She would further state that as this Writ Petition is pending, respondent could not have filed charge-sheet until disposal of the Writ Petition. She further contended that every provision of the special Act is attracted, whereas watered down provisions are only included in the crime registered by the Police.

4. Learned Government Pleader submitted that investigation was completed in Crime No.219 of 2018 and charge-sheet was filed before the VIII Additional Chief Metropolitan Magistrate, Hyderabad, and the case is pending trial in C.C.No.1842 of 2019. He therefore submitted that no issue is pending before the Station House Officer to investigate. He further submitted that with reference to the Crime No.221 of 2018, in the process of investigation, on the complaint made by the petitioner, in order to undertake investigation under Act, 1989, information is sought on social status of petitioner. Notice under Section 91 of Cr.P.C., was issued on 05.03.2019, and as soon as information on the social status is confirmed, further action will be taken.

5. In reply, party-in-person would submit that petitioner filed petition before the Special Court-cum-VI Metropolitan Sessions Judge on 11.03.2019 in S.R.No.350 of 2019 alleging delay in conducting investigation into Crime No.221 of 2019. Petitioner informed the Court that said petition was dismissed on 09.04.2019.

6. As per the provisions of the Act, once crime is registered, Investigating Officer has to conduct investigation and file his final report within 60 days. If there is any delay in conducting investigation, he has to explain to the Special Court the reasons for the delay in completing the investigation. If Special Court is not satisfied with the explanation offered with regard to delay in conducting investigation and filing final report, as per Section 4, the Investigating Officer is liable for prosecution. Alleging that there is inordinate delay in investigation, petitioner claimed to have filed petition vide S.R.No.350 of 2019 before the Special Court. As stated by the petitioner, said petition was considered and dismissed by the Special Court. Since the issue of delay in investigation is already considered by the Special Court and dismissed, no further orders are required to be passed at this stage. Further as stated by the learned Government Pleader, there is no further progress in the investigation into the Crime No.221 of 2018 since Police are awaiting social status of petitioner. In order to apply the provisions of the Act, it is necessary to first ascertain the social status of the complainant and Police asking for social status of the complainant cannot be faulted.

7. Petitioner sought to contend that respondent could not have deleted Sections 307 and 354 of IPC in Crime No.219 of 2018 and without arresting the accused, they could not have filed charge-sheet. Merely because crime is registered alleging violation of Act, 1989, it is not mandatory for the Police to arrest the accused as a matter of course. Further, filing of charge-sheet cannot be linked to prior arrest. Be that as it may, investigation is already completed and charge-sheet is filed, the trial Court has taken cognizance of the offence alleged, and the case is pending trial. At this stage, no opinion can be expressed on the issue of why certain provisions of the IPC/Special Act are not incorporated in the final report. Further, merely because certain provisions of law are not mentioned is not conclusive and it is for the trial Court to formulate the charges against the accused and to conduct trial.

8. Since investigation is completed in FIR No.219 of 2018, charge-sheet is already filed and the VIII Additional Chief Metropolitan Magistrate, Hyderabad took cognizance of the crime and CC No.1842 of 2019 is pending trial, no further orders are required to be passed on said crime. Further, as the issue of delay in investigation was considered by Special Court in S.R.No.350 of 2019, the issue of delay in investigation need not be gone into at this stage. Writ Petition is accordingly dismissed. However, it is made clear that there is no expression of opinion on merits. Pending miscellaneous petitions shall stand closed.

JUSTICE P.NAVEEN RAO

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