

**HIGH COURT FOR THE STATE OF TELANGANA
(Special Original Jurisdiction)**

THURSDAY, THE THIRTEENTH DAY OF AUGUST
TWO THOUSAND AND TWENTY

PRESENT

THE HON'BLE SRI JUSTICE T.VINOD KUMAR

WRIT PETITION NO: 12097 OF 2020

Between:

1. YMCAs of Greater Hyderabad, Rep. by its Secretary Sampath Kumar
R/o Office at 9-1-38, YMCA, S.P. Road Secunderabad, Hyderabad
2. E Jayaker Daniel, S/o E. John Robert Aged about 53 years,
R/o, 9-1-38 YMCA, S.P. Road, Secunderabad

...PETITIONERS

AND

1. State of Telangana, Rep. by its Principal Secretary (Home Department)
Secretariat, Hyderabad
2. Commissioner of Police, Hyderabad at Hyderabad
3. S.H.O, Gopala Puram P.S., Secunderabad, Hyderabad
4. Venkataramana A.C.P, Gopala Puram Division Secunderabad,
Hyderabad
5. T.S. Kiran Kumar, S/o T. Sailas Aged about 58 years, R/o, 1-1-526,
B-204 Golconda X Roads, Hyderabad
6. Mr. Leonard Myron, S/o Aged about. years, R/o. YMCA Secretary
Quarter S P. Road, Secunderabad.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue an appropriate Writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondents in not taking any action against the 5th and 6th respondents pursuant to FIR No 177 dt.01/07/2020, as illegal, null, void and arbitrary

IA NO: 1 OF 2020

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the 2nd Respondent to take action against the 4th respondent in interfering with the functioning of the 3rd respondent in FIR No. 177/2020 on the file of the 3rd respondent, forthwith and pending disposal of the present Writ Petition

IA NO: 2 OF 2020

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the 3rd Respondent to conduct the investigation and file charge sheet in FIR. No. 177/2020 uninfluenced by the 4th respondent, forthwith pending disposal of the present Writ Petition

Counsel for the Petitioner: SRI K. DURGA PRASAD

Counsel for the Respondent Nos.1 to 3: GP FOR HOME

Counsel for the Respondent No.5 : SRI N. NAVEEN KUMAR

Counsel for the Respondent Nos.4 & 6:-----

The Court made the following: ORDER

THE HON'BLE SRI JUSTICE T.VINOD KUMAR

WRIT PETITION No.12097 of 2020

ORDER:

The present writ petition is filed for issue of a *Writ of Mandamus* declaring the action of the respondents in not taking any action against the 5th and 6th respondents pursuant to FIR No.177 of 2020, dated 01.07.2020, as illegal, null and void and arbitrary.

2. The present writ petition is taken up for hearing today, i.e. 13.08.2020, through Video Conferencing.

3. Heard the learned counsel for the petitioners, learned Assistant Government Pleader for Home, appearing for respondents 1 to 3, and Sri N.Naveen Kumar, learned counsel on caveat appearing for the 5th respondent.

4. Learned counsel for the petitioners, while reiterating the writ averments, submits that, despite a case, *vide* FIR No.177 of 2020, dated 01.07.2020, having been registered by the 3rd respondent, the said authority is not proceeding with the investigation into the case by taking necessary action due to interference by the 4th respondent authority, who has been made a party respondent by name in the present writ petition without arraying him in his official capacity.

5. Learned Assistant Government Pleader for Home has forwarded to this Court by e-mail, the written instructions, dated 04.08.2020, under the signature of the 3rd respondent authority. By the said written instructions, while denying the writ averments, it is stated that, based on the complaint made by the petitioners herein, the 3rd respondent registered a case, *vide* FIR No.177 of 2020 for the offences under Sections 457 and 380 IPC on

the file of the 3rd respondent Police station and took up investigation in the case. By the said written instructions, it is also stated that, while the 3rd respondent authority has registered a case and took up investigation, the 5th respondent in the present writ petition also lodged a complaint against the petitioners herein, which has been registered as Crime No.178 of 2020, wherein the 2nd petitioner herein is arrayed as one of the accused.

6. In so far as the allegation as regards the investigation into the crime registered based on the complaint made by the petitioners is concerned, by the written instructions, it is stated that, after registering the case and the 3rd respondent authority taking up investigation, the investigating officer visited the scene of offence and caused enquiries in the vicinity, but no clues came forth. It is further stated that, initially the investigating officer prepared Case Dairy File and examined two eye witnesses, by name M.Srinivas and Md.Ameer Khan, and recorded their detailed statements in part II CD, wherein they stated that on 26.06.2020 in the early morning hours, the 6th respondent approached M.Srinivas and Md.Ameer Khan and asked for office keys, which was instructed by T.S.Kiran Kumar, the 5th respondent herein, to collect his Laptop and Minute books and as per his request, the said M.Srinivas gave the office keys to the 6th respondent and assisted him in collecting the Laptop and Minute books from his office by opening the door lock with available key. It is also further stated that no lock break took place at YMCA office and no offence took place on 26.06.2020 in the morning hours as mentioned in the complaint. By the above mentioned written instructions, it is further stated that he also verified the CCTV footage for the day 26.06.2020 in the morning hours in which the said T.S.Kiran Kumar was not found and

only the 6th respondent was available and was handling the Laptop and Minute books, which were taken from the 5th respondent office by opening the lock with the available key, which was present with M.Srinivas, who is the watchman of the YMCA.

7. By the aforesaid written instructions, it is also stated that, *prima facie*, it is seen that there is no sign of offence under Sections 457 and 380 IPC having taken place and therefore, some more evidence is to be collected to finalize the case. In the written instructions, the allegation that the case is not being investigated under the influence of the 4th respondent authority, is denied by the 3rd respondent authority. It is further stated therein that the 3rd respondent authority is conducting investigation into the above crime registered in most fair and impartial manner and the investigating agency will finalize the case basing on the merits of the investigation. It is also stated that the investigation into the above matter is in advance stage and is pending for collecting some more evidence, thereafter the case would be finalized and report under Section 173 Cr.P.C. would be filed before the concerned Court.

8. Sri N.Naveen Kumar, learned counsel on caveat for the 5th respondent, submits that he has no objection for this Court recording the submission made on behalf of the 3rd respondent, but however, states that his right to question the registration of FIR be protected.

9. Having regard to the submissions made as above, and taking into account the fact that the investigation is in the advance stage, the contention of the petitioners that the 3rd respondent authority is not proceeding with the investigation into the case, under the influence of the 4th respondent authority, does not appeal to this Court for being accepted

and also since, it is stated that the investigation is in the advance stage, it is needless to mention that the 3rd respondent authority shall conduct investigation into the matter as expeditiously as possible to its logical conclusion.

10. Subject to the above observation, the Writ Petition is disposed of. Pending miscellaneous petitions, if any, shall stand closed. No order as to costs.

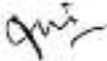
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SD/-K.AMMAJI
ASSISTANT REGISTRAR
SECTION OFFICER

To,

1. The Principal Secretary (Home Department), State of Telangana, Secretariat, Hyderabad.
2. Commissioner of Police, Hyderabad at Hyderabad
3. S.H.O, Gopala Puram P.S., Secunderabad, Hyderabad
4. One CC to Sri. K. Durga Prasad, Advocate [OPUC]
5. One CC to Sri N. Naveen Kumar, Advocate [OPUC]
6. Two CCs to GP for Home (TG), High Court for the State of Telangana at Hyderabad. [OUT]
7. Two CD Copies

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HIGH COURT

DATED:13/08/2020



ORDER

WP.No.12097 of 2020

DISPOSING OF THE WP
WITHOUT COSTS.

SW
9 copies
Dr 31/8/2020