

**HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

(Special Original Jurisdiction)

**FRIDAY ,THE NINTH DAY OF OCTOBER
TWO THOUSAND AND TWENTY**

PRESENT

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION NO: 15608 OF 2020

Between:

P.Praveen Kumar, S/o Late P.Pentalah, Aged about 53 years, Occ. Agriculture,
R/o Vattenagulapalli Village, Rajendranagar Mandal, R.R. District.

...PETITIONER

AND

1. The Director General of Police, Telangana, Lakdikapul, Hyderabad.
2. The Commissioner of Police, Cyberabad Commissionerate, Cyberabad, Hyderabad
3. The Deputy Commissioner, Gachibowli, Cyberabad Hyderabad District.
4. The Assistant Commissioner of Police, Gachibowli, Cyberabad, Hyderabad
5. The Station House Officer, Gachibowli Police Station, Cyberabad, Hyderabad.

...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 a Writ in the nature of writ of mandamus declaring the inaction of the respondents to register an FIR on the complaint dated 29-09-2019 as illegal and arbitrary as otherwise, the petitioner will suffer irreparable loss and injury.

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 respondents herein to register an FIR against the said culprits and punish them as per law after conducting detailed investigation.

Counsel for the Petitioners: SRI T. V. MURLIDHAR (Not appeared)

Counsel for the Respondents: GP FOR HOME

The Court made the following: ORDER

HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION NO.15608 of 2020

ORDER:

On 23.09.2020, there was no representation for the petitioner. Having noticed from the prayer that the petitioner was aggrieved by non-registration of crime and as the subject matter is covered by the earlier decisions, the matter was directed to be listed 'for dismissal' on 30.09.2020. On 30.09.2020, there was no representation for the petitioner. However, to give one more opportunity, the matter was directed to be listed on 07.10.2020 under the caption 'for dismissal'. On the said date, again there was no representation and to give final opportunity, matter was directed to be listed on 08.10.2020 under the caption 'for dismissal'. Though there was no representation on behalf of petitioner, as Court was informed that there was some technical glitch, the case was adjourned to 09.10.2020 to be listed under the caption 'for dismissal'. Today also there is no representation.

2. Alleging that persons named in the complaint abused petitioner on caste lines, attracting the provisions of SC/ST (Prevention of Atrocities) Act 1989 (Act 33 of 1989) petitioner claimed to have lodged complaint on 24.09.2019 in the Gachibowli Police Station requesting to register the crime and investigate into the same. Though GD entry was made but crime was not registered. On the contrary, a false criminal case was registered against the petitioner. This writ petition is filed praying to declare the action of the respondents in not registering the crime reported by the petitioner on 24.09.2019 as illegal and to take appropriate action.

3. Having noticed that the atrocities against SCs and STs are increasing day by day and the provisions in Civil Rights Act, 1955 and the Indian Penal Code are found to be inadequate and to protect the SCs and STs from atrocities committed against them in various forms, the Act 33 of 1989 was made to check and deter crimes against SCs and STs. On review of functioning of the Act by Act 1 of 2016, the Act 33 of 1989 was further amended.

4. Section 4 of the Act, after its amendment by Act 1 of 2016 prescribes procedure required to be followed by a public servant on receiving information about committing offence under the Act 33 of 1989 and the timeline for completing the investigation whenever a crime is reported alleging violation of the provisions of the Act. It mandates to complete the investigation and filing of charge sheet in the Special Court within a period of 60 days from the date of registration of the crime. If there is delay in the investigation and filing of charge sheet, the Investigating Officer has to satisfy the Special Court the reasons for delay in investigation. According to sub-section (3) of Section 4, the Special Court can take cognizance on dereliction of duty and can give directions to initiate penal proceedings against public servant. According to sub-section (1) of Section 4, if there is wilful neglect of duties required to be performed by the investigating officer under the Act and the Rules made there under, he is punishable with imprisonment for a term which shall not be less than six months. Section 14 of the Act 1989 vests power in the Special Court to take cognizance of the offences reported under the Act.

5. In the case on hand, petitioner alleges that not registering of crime of atrocity committed against a Schedule Caste person is illegal and violates the provisions of Act 33 of 1989.

6. As noticed above, the Special Court is vested with wide powers under the Act 33 of 1989 read with provisions of Code of Criminal Procedure to deal with grievances. It has power to take cognizance of the crime reported under the Act 33 of 1989, examine the aspect of delay in completing the investigation and filing of charge sheet and whether such delay would amount to deliberate and willful neglect of duties by the public servant. Further, if it is not satisfied with the conduct of public servant it can order prosecution and to punish him. When matter is brought before the Special Court, the Special Court shall have all material facts in issue at its command to assess and shall be competent to go into all aspects and to take appropriate decision.

7. It is consistent view of High Courts in the country that after the amendment to Act 33 of 1989 by Act 1 of 2016, the Special Court is vested with power to take cognizance of the crime. (**Achla D Sapre Vs Asha Mahilkar¹; Amarendra Nath Tewary Vs Basana Lohar²; and Sumit Vs State of UP³.**)

8. It can not be said that the remedy provided under the Act is not an efficacious remedy. Thus, petitioner ought to have availed the remedies provided under the Act. When petitioner has statutorily engrafted redressal mechanism to redress his grievance, this Court is not inclined to entertain the writ petition.

¹ 2016 SCC Online Chh 294

² CRR 3244 of 2018; CRAN 1504 of 2019 Calcutta HC dt 22.5.2019

³ App U/S 482 No.491 of 2020 Allahabad HC dt 5.3.2020

9. Thus, leaving it open to petitioner to work out his remedy, as available in law against non-registration of crime reported under the Act 33 of 1989, the Writ Petition is dismissed. Pending miscellaneous petitions shall stand closed.

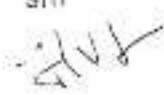
SD/-K.AMMAJI
ASSISTANT REGISTRAR
SECTION OFFICER

//TRUE COPY//

To,

1. One CC to Sri T. V. Murlidhar, Advocate [OPUC]
2. Two CCs to GP for Home, High Court for the State of Telangana at Hyderabad. [OUT]
3. Two CD Copies

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HIGH COURT

DATED:09/10/2020

ORDER

WP.No.15608 of 2020



DISMISSING THE WP

WITHOUT COSTS

⑤
21/10/20
HVL