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

WEDNESDAY, THE TWENTY FIRST DAY OF OCTOBER
TWO THOUSAND AND TWENTY

PRESENT

THE HON'BLE SRI JUSTICE P NAVEEN RAO

WRIT PETITION NO: 18492 OF 2020

Between:

R.K. Ahuja, S/o. Late Dr. Tarachand Ahuja, Aged: 75 years, Occ: Business, R/o. 'B-12', Anand Niketan', New Delhi -110021. Represented by his G.P.A. Holder D.K. Ahuja, S/o. Late K.C.Ahuja Aged: 66, Occ: Business, R/o. 6-3-1219/3, Uma Nagar, Begumpet - 500016.

...PETITIONER

AND

1. The State of Telangana, Represented by its Principal Secretary, Home Department, Hyderabad, T.S.
2. The Station House Officer, Panjagutta Police Station, Hyderabad, T.S.

...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 a Writ or Order or Direction, particularly one in nature of Writ of Mandamus, questioning the inaction on the part of the Respondents 1 and 2 in investigating the Crime Registered in F.I.R. 492 of 2019 dated 28.09.2019 on the file of Panjagutta Police Station, Hyderabad, Telangana for the offences under Sections 406, 417, 420, 447 R/w 120B IPC and Section 156(3) Cr.P.C and filing the final report (charge sheet) under Section 173 of Cr.P.C., as arbitrary, illegal, unfair, unjust and violation of Article 14 of Constitution of India, and consequently to direct the 2nd Respondent to complete the investigation and file the final report immediately in the interest of Justice, pending disposal of the Writ Petition, in the interest of Justice.

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 conduct investigation in the Crime No. 492 of 2019 dated 28-09-2019 for the offences under Sections 406, 417, 420, 447 R/w 120B IPC and Section 156(3) Cr.P.C and file the final report (Charge Sheet) under Section 173(3) of Cr.P.C pending disposal of the Writ petition.

Counsel for the Petitioner: SRI OMAR A PASHA

Counsel for the Respondents: AGP FOR HOME

The Court made the following: ORDER

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No.18492 OF 2020

ORDER:

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

2. This writ petition is filed alleging that even though a cognizable Crime No.492 of 2019 was registered on 28.09.2019 in Panjagutta Police station on the complaint lodged by the petitioner, so far there is no progress in the investigation.

3. If the petitioner had grievance against delay in investigation into Crime No.492 of 2019, he has an effective and efficacious remedy under the Criminal Procedure Code. Therefore, petitioner has to avail the remedy available in law, before invoking the jurisdiction of this Court.

4. The very issue was considered by this Court in W.P.No.38397 of 2018 and batch in **Govind Raju Sami v. State of Telangana and Others**[1]. On consideration of the precedent decisions on the subject and the scope of provisions of the Code of Criminal Procedure, more particularly, Sections 156, 190 and 200 of Cr.P.C., this Court held as under:

> "34. Having regard to law propounded by Supreme Court, it is no more open for any one to contend that unless a report is filed aggrieved person is without remedy. It is also no more open to contend that once crime is registered accused must be arrested and charge sheet/final report must be filed as a matter of course. Further, delay in completing the investigation can be for various reasons. Police may be waiting for forensic report/Medical report/the accused is absconding/having regard to complex

[1] 2019 (3) ALT 139

> nature of crime reported more time is consumed to collect required data/information to assess the nature of crime, number of documents and/or witnesses are more. While determining delay, it is necessary to consider each case on its facts having regard to attending circumstances including nature of offence, number of accused and witnesses etc [Mahender Lal Das v. State of Bihar Appeal (Civil) No. 1038 of 2001 dated 12.10.2001]. The jurisdictional Magistrate shall have all material facts in issue at his command to assess the issue and shall be competent to go into all aspects when matters are brought before him and to take appropriate decision. It is also within the competence of superior officers to assess the conduct of Station House Officer and to take remedial action whenever there is deliberate and unexplained delay in investigation and filing of final report."

5. This aspect was considered by the Hon'ble Supreme Court in **M.Subramaniam and another v. S.Janaki and another**[2]. In the said judgment, the Hon'ble Supreme Court affirmed the view taken by the Supreme Court in **Sakiri Vasu v. State of Uttar Pradesh**[3] and **Mohd. Yousuf v. Afaq Jahan**[4]. The Hon'ble Supreme Court noted the opinion expressed in **Sakiri Vasu**. In **Sakiri Vasu**, the Supreme Court held as under:

> "17. In our opinion Section 156(3) Cr.P.C. is wide enough to include all such powers in a Magistrate which are necessary for ensuring a proper investigation, and it includes the power to order registration of an FIR and of ordering a proper investigation if the Magistrate is satisfied that a proper investigation has not been done, or is not being done by the police. Section 156(3) Cr.P.C., though briefly worded, in our opinion, is very wide and it will include all such incidental powers as are necessary for ensuring a proper investigation."
>
> 18. It is well settled that when a power is given to an authority to do something it includes such incidental or implied powers which would ensure the proper doing of that thing. In other words, when any power is expressly granted by the statute, there is impliedly included in the grant, even without special mention, every power and every control the denial of which would render

[2] 2020 SCC online S.C. 341
[3] (2008) 2 SCC 409
[4] (2006) 1 SCC 627

the grant itself ineffective. Thus where an Act confers jurisdiction it impliedly also grants the power of doing all such acts or employ such means as are essentially necessary for its execution."

6. Following the above decisions, this writ petition is dismissed granting liberty to the petitioner to avail the remedy as provided by the Code of Criminal Procedure against not concluding the investigation and filing the final report. Pending miscellaneous petitions shall stand closed.

SD/- K.AMMAJI
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,
1. One CC to Sri Omar A Pasha, Advocate [OPUC]
2. Two CCs to GP for Home, High Court for the State of Telangana [OUT]
3. Two CD Copies.

MP

HIGH COURT

DATED:21/10/2020



ORDER

WP.No.18492 of 2020

DISMISSING THE WRIT PETITION
WITHOUT COSTS

28/10/2020