

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

MONDAY, THE SECOND DAY OF NOVEMBER
TWO THOUSAND AND TWENTY

PRESENT

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION NO: 18595 OF 2020

Between:

1. T.V. Krishna Rao, S/o. T.C. Ramaiah, aged about 66 years, Occ. Retired,
2. Smt. T.Rajyalaxmi, W/o T.V.Krishna Rao, aged about 62 years, Occ. Housewife

(Both are r/o H.No. 8-401, Main Road, Mancherla Adilabad District.)

...PETITIONERS

AND

1. The State of Telangana, rep. by its Principal Secretary, Home Department Secretariat, Hyderabad.
2. The Commissioner of Police, Mancherla Mancherla District.
3. The Deputy Commissioner of Police, Mancherla, Mancherla District.
4. The Assistant Commissioner of Police, Mancherla, Mancherla District.
5. The Station House Officer, Mancherla Police Station, Mancherla District.
6. Smt. Tanneru Divya, w/o Tanneru Hari Prasad aged about 29 years, occ. Employee, r/o 2-114, Ambedkar Nagar, Narnoor, Adilabad District.

...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, to declare the inaction of the respondent police in taking action against the 6th respondent in accordance with Law and to provide protection to the petitioners from the 6th respondent who is extending severe threats and subjecting them to suffer harassment and mental agony, pursuant to the complaint dt.18-8-2020, followed by personal visits, as being illegal, arbitrary and unjust and consequently direct the respondent police to forthwith act upon the complaint dt. 18.8.2020 and take action against the 5th respondent.

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 respondent police to take action against the 6th respondent pursuant to the complaint dt. 18.8.2020, pending disposal of the main Writ Petition.

Counsel for the Petitioner: SRI. VADAPALLY AGNI KUMAR

Counsel for the Respondent Nos.1 to 5: AGP FOR HOME

Counsel for the Respondent No.6: NONE APPEARED

The Court at the stage of admission made the following: ORDER

HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION NO.18595 of 2020

ORDER:

Heard learned counsel for petitioners and learned Assistant Government Pleader for Home.

2. According to petitioners, cognizable offence was reported by the petitioners on 18.08.2020 and inspite of several personal requests also, so far crime is not registered, whereas the 6th respondent is harassing the petitioners and unless crime is registered and appropriate investigation is conducted expeditiously, grave prejudice would be caused to them.

3. Learned counsel for the petitioners submits that after filing of the above complaint as there was no response from the Station House Officer, petitioners have also complained to the higher authorities, but so far there is no progress of registering crime and investigating into the crime reported by them. In other words, the grievance of petitioners is against non-registration of crime so far.

4. If the petitioners have grievance against non-registration of crime, they have an effective and efficacious remedy under the Code of Criminal Procedure. Therefore, petitioners have to avail the remedy available in law, before invoking the jurisdiction of this Court.

5. 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

¹ 2019 (3) ALT 139

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 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.

6. 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

² 2020 SCC online S.C. 341

³ (2008) 2 SCC 409

⁴ (2006) 1 SCC 627

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 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."

7. Following the above decisions, this writ petition is dismissed granting liberty to the petitioners to work out their remedies on the issue of non-registration of crime stated to have been reported by them on 18.08.2020. Pending miscellaneous petitions shall stand closed.

//TRUE COPY//

SD/-K.SAILESHI
ASSISTANT REGISTRAR
SECTION OFFICER

To,

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

CHR



HIGH COURT

DATED:02/11/2020

ORDER

W.P.No.18595 of 2020



DISMISSING THE WRIT PETITION
AT THE STAGE OF ADMISSION
WITHOUT COTS

ssv
5 copies
Dt 6/11/2020