

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

(Special Original Jurisdiction)

TUESDAY, THE SEVENTEENTH DAY OF NOVEMBER
TWO THOUSAND AND TWENTY

PRESENT

THE HONOURABLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION NO: 19198 OF 2020

Between:

Reddymalla Muttamma@ R Muthyalu, W/o. R Narasimha, Aged about 39 years,
Occ. Agriculture R/o. D.No. 6-12, Boyagubba, Chinnakaparthi, Chityala Mandal,
Nalgonda District

...PETITIONER

AND

1. The State rep. by its Principle Secretary (Home), Government of Telangana, Secretariate Buildings, Tankbund, Hyderabad.
2. The Superintendent of Police, Nalgonda, Nalgonda District.
3. The Deputy Superintendent of Police, Nalgonda, Nalgonda District.
4. The Station House Officer, Chityala, Nalgonda District, Telangana State.
5. Madagoni Ramakrishna, S/o Ramulu, Aged about 36 years, Occ. Business, R/o Chinnakaparthi Village and Post, Chityala Mandal, Nalgonda District, Telangana State.

...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, order or direction more particular one in the nature of writ of Mandamus declaring the action of the 4th Respondent in not registering the FIR inspite of the written complaint dated 01/03/2020 lodged by the petitioner so far inspite of several requests and representations of the petitioner is illegal, arbitrary, improper, and unconstitutional and against the procedure contemplated under the code of criminal procedure and consequently direct the respondents to Register the FIR basing on the written complaint dated 01/03/2020 lodged by the petitioner and take action as per the procedure and to file final report forthwith as per the procedure contemplated under the code of criminal procedure.

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 4th respondent to take action on the written complaint dated 01/03/2020 lodge by the petitioner for registration of FIR forthwith pending disposal of the writ petition.

Counsel for the Petitioner : SRI G. ESWARAI AH

Counsel for the Respondent Nos.1 to 4: AGP FOR HOME

Counsel for the Respondent No.5:-----

The Court made the following: ORDER

HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION NO.19198 OF 2020

ORDER:

Heard learned Counsel for the petitioner and learned Assistant Government Pleader for Home.

2. This writ petition is filed alleging that even though cognizable crime was reported on 01.03.2020 offending the provisions of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'the Act, 1989'), crime is not registered.

3. According to learned counsel for the petitioner as there was no response to the complaint lodged on 01.03.2020, petitioner lodged another complaint on 12.08.2020 also, but the same was also not acted upon. On 19.08.2020, petitioner filed complaint before the Superintendent of Police, Nalgonda District, referring to the earlier complaints and alleging inaction by the subordinate authorities.

4. When the matter is taken up, learned Assistant Government Pleader informs that the earlier complaints made by the petitioner were not received by the police and on the complaint made to the Superintendent of Police on 19.08.2020, G.D entry was made and the matter is being investigated into. He would further submit that writ petition against non-registration of crime is not maintainable and petitioner has to avail remedies provided by the Code of Criminal Procedure and the Act, 1989.

5. 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.

6. 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.

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

8. 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 wilful 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.

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

10. Having regard to the view taken by this Court consistently, the Writ Petition is not maintainable and is accordingly dismissed granting liberty to the petitioner to avail the remedies provided by the Code of Criminal Procedure and the Act, 1989. Miscellaneous petitions, pending, if any, shall stand closed.

SD/-N.CHANDRA SEKHAR RAO
ASSISTANT REGISTRAR

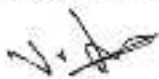
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SECTION OFFICER

To,

1. One CC to Sri G. Eswaraiah, 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:17/11/2020

ORDER

WP.No.19198 of 2020



DISMISSING THE WP

WITHOUT COSTS

(5) VW
26/11/20