

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

THURSDAY, THE SEVENTEENTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY

PRESENT

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION NO. 22825 OF 2020

Between:

1. Mohd. Sarwar, S/o. Late Kasim, Aged 70 years, Occ. Agriculture, R/o. Shamshabad, H/o. Govindapuram Village, Nallabelli Mandal, Warangal District.
2. Mohd. Kareem, S/o. Late Kasim, Aged 68 years, Occ. Agriculture, R/o. Shamshabad, H/o. Govindapuram Village, Nallabelli Mandal, Warangal District.
3. M.A. Azeez @ Hazi, S/o. Late Ismail, Aged 57 years, Occ. Agriculture and employee, R/o. Shamshabad, H/o. Govindapuram Village, Nallabelli mandal, Warangal District Presently residing at H.No. 10-2-199, Near Govindarajulautta, Girmajipet, Warangal

...PETITIONERS

AND

1. The State of Telangana, Rep by its Principal Secretary, Home Department, Secretariat, Hyderabad.
2. The Commissioner of Police, Warangal Urban, Warangal District.
3. The Station House Officer, Nallabelli Police Station, Nallabelli, Warangal District.
4. Syed Babar Jahiruddin, S/o. Late Syed Abdul Mazid Haji, Aged 71 years, R/o. Shamshabad Village, Nallabelli, Revenue Mandal, Warangal District
5. Mr. Rajendranath, Working as Tahsildar, Nallabelli, Warangal District.
6. Mr. Srinivas, Working as Tahsildar, Nallabelli, Warangal District.
7. Mr. Vivek, Working as Tahsildar, Nallabelli, Warangal District.
8. Mrs. Kalpana, Working as Dy. Tahsildar, Nallabelli, Warangal District.
9. Mr. Ravi, Working as VRO, Nallabelli, Warangal 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 a Writ, Order or Direction more particularly one in the Nature of Writ of Mandamus, declaring the action of the respondents police particularly 3rd respondent who is not registering the complaint of the petitioner dated 22/10/2020 along with acknowledgement dt. 22/10/2020 against the unofficial respondents who is illegally mutation and creating documents in respect of the petitioners land in Survey No. 24, 42 to an extent of Ac.47.24 gts in Sy No. 41 Ac. 11.00 gts situated at Shamshabad Village, Govindapuram Revenue Village, Nallabelli Mandal, Warangal District is illegal, arbitrary and against the principles of natural justice and also violation of apex court rulings held in Lalitha Kumari Vs. Govt. of UP and ors and as well as Cr.P.C

and consequently direct the respondents police to entertain the complaint and register the FIR against the unofficial respondents 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 respondents police to register the FIR basing on the complaint of the petitioner dated 22/10/2020 to take action against the unofficial respondents, pending disposal of the main writ petition.

Counsel for the Petitioners: SRI MADISETTY AJAY KUMAR

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

Counsel for the Respondent Nos.4 to 9: --

The Court made the following: ORDER

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No.22825 OF 2020

ORDER:

Even though the matter is listed under the caption for dismissal, there is no representation for the petitioners.

2. Heard learned Assistant Government Pleader for Home appearing for respondent Nos.1 to 3.

3. This writ petition is filed alleging that even though cognizable crime was reported on 22.10.2020, acknowledged on the same day, so far crime is not registered.

4. If the petitioners had grievance against non-registration of crime, they have an effective and efficacious remedy under the Criminal Procedure Code. 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 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

¹ 2019 (3) ALT 139

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 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,

² 2020 SCC online S.C. 341

³ (2008) 2 SCC 409

⁴ (2006) 1 SCC 627

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 the petitioners on 22.10.2020. Pending miscellaneous petitions shall stand closed.

//TRUE COPY//

SD/- B.SATYAVATHI
ASSISTANT REGISTRAR

CK CK
SECTION OFFICER

To,

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

MP



HIGH COURT

DATED:17/12/2020



ORDER

WP.No.22825 of 2020

DISMISSING THE WRIT PETITION
WITHOUT COSTS

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[Signature]
26/12/2020