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

THURSDAY, THE SEVENTEENTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY

PRESENT

HONOURABLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION NO: 23016 OF 2020

Between:

Sri. Samala Manikyappa, S/o. Laxmaiah, Aged about 75 years, Occ. Agriculture, R/o. Narayanpet Town and Mandal, Narayanpet District. Presently R/o. MIG.38, Flat No. 401, Vasavi Srinivasam Apartment, Road No. 1 K.P.H.B. Hyderbad-72.

...PETITIONER

AND

1. The State of Telangana, Rep. by its Principal Secretary, Home Department, Secretariat Building, Hyderabad, Telangana.
2. The Superintendent of Police, Narayanapet District, Narayanpet.
3. The Sub-Inspector of Police, Utkoor Police Station, Narayanapet District.
4. U. Venkatramulu, S/o. Ashappa, Aged. 50 years, Occ. Agriculture, R/o. H.No. 2-69, Vallampally Village, Utkoor Mandal, Narayanpet District.
5. Mohammed Abdul Rahaman, S/o. Mahammed Hussain, Aged 40 years, Occ. Business, R/o. H.No. 8-1-398/PM/352, Paramount Colony, Tolichowki, Golconda, Hyderabad.
6. Mohammed Faizal, S/o. Mahammed Rafi, Aged. 30 years, Occ. Business, R/o. H.No. 1-6-50, Ashok Nagar, Narayanpet 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 order or erection more particularly one in the nature of Writ of "Mandamus" declaring the inaction on the part of the Respondent Nos. 2 and 3 in not investigating on petitioner Complaint Dt. 12/10/2020, 13/10/2020, and Register an FIR against the Respondent No. 4 to 6 in respect of land in Sy No.223 extent Ac. 04.27 Gunts, Vallampally Village, Utkoor Mandal, Narayanpet District under the relevant provisions of Criminal law as illegal, arbitrary and in Violation of Principals of Natural Justice and also in violation of Articles 14, 21 and 300A of Indian Constitution and consequently direct the Respondents No. 2 and 3 to register a criminal case on his Complaint Dt. 12/10/2020, 13/10/2020

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 Nos. 2 to 3 to Consider the Complaint Dt. 12/10/2020, 13/10/2020, of the Petitioner and register a FIR against Respondent No. 4 to 6, in respect of land in Sy No. 223 an extent of Ac 04-27 Guntas, of Vallampally Village, Utkur Mandal, under relevant provisions of Criminal Law pending final disposal of main Writ Petition.

Counsel for the Petitioner : SRI N. ASHOK KUMAR

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

Counsel for the Respondent Nos. 4 to 6: NONE APPEARED

The Court made the following: ORDER

HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.23016 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 12.10.2020 and 13.10.2020, so far, crime is not registered.

3. The grievance of petitioner is against non-registration of crime, even though cognizable crime is reported. If the petitioner had grievance against non-registration of crime, 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 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

[1] 2019 (3) ALT 139

> 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."
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> 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."

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

6. Following the above decisions, this writ petition is disposed of granting liberty to the petitioner to work out his remedies on the issue of non-registration of crime stated to have been reported by the petitioner on 12.10.2020 and 13.10.2020. Pending miscellaneous petitions shall stand closed.

SD/-I.NAGALAKSHMI
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. One CC to Sri. N. Ashok Kumar, Advocate [OPUC]
2. Two CCs to GP for Home, High Court for the State of Telangana. [OUT]
3. Two C.D. Copies

Prk

HIGH COURT

DATED:17/12/2020

ORDER

WP.No.23016 of 2020



Disposing of the WP.

S
TMA
D 24/12/2020.