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

WEDNESDAY, THE TWENTY THIRD DAY OF DECEMBER
TWO THOUSAND AND TWENTY

PRESENT

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION NO: 23571 OF 2020

Between:

Thondapu Ramesh Babu, S/o Beemaiah, aged about 49 years, Occ.Agriculture, R/o Thallada Village and Mandal, Khammam District.

...PETITIONER

AND

1. The State of Telangana, Rep. by its Principal Secretary, Home Department, Secretariat Building, Secretariat, Hyderabad.
2. The Director General of Police, Telangana, Lakadikapool, Nampally, Hyderabad.
3. The Commissioner of Police, Khammam Commissionerate, Khammam Town and District.
4. The Assistant Commissioner of Police, Wyra Division, Khammam District.
5. The Station House Officer, Thallada Police Station, Khammam District.
6. Thondapu Venkata Krishna, S/o Bheemaiah, Aged about 59 years, Occ.Agriculture, R/o R/o Thallada Village and Mandal, Khammam District and others.

...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 inaction of respondent No.5 in non-registration of FIR against the respondent No.6 and others basing on the complaint lodged by the petitioner, is highly illegal, arbitrary, unconstitutional, unjust and in violation of Principles of Natural Justice and also in violation of Articles 14, 19 and 21 and 300-A of the Constitution of India and consequently to direct the 5th respondent to register the FIR against the respondent No.6 and others basing on the complaint lodged by the petitioner

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 5th respondent to register the FIR against the respondent No.6 and others basing on the complaint lodged by the petitioner pending disposal of the writ petition

Counsel for the Petitioner: SRI RAPOLU BHASKAR

Counsel for Respondent Nos. 1 to 5: GP FOR HOME

Counsel for Respondent No. 6: ----

The Court made the following: ORDER

HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No.23571 OF 2020

ORDER:

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

2. This writ petition is filed alleging that even though cognizable crime was reported on 17.05.2020, so far crime is not registered.

3. 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 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

[1] 2019 (3) ALT 139

> 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 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 with liberty to petitioner to work out his remedies on the issue of non registration of crime stated to have been reported by the petitioner on 17.05.2020. Pending miscellaneous petitions shall stand closed.

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

SD/-M.RAMANA KRISHNA
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

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

MBC

HIGH COURT

DATED: 23/12/2020



ORDER

WP.No.23571 of 2020

DISMISSING THE WRIT PETITION

WITHOUT COSTS

(5) VLV 30/12/20