

THE HON'BLE SRI JUSTICE T.VINOD KUMAR

WRIT PETITION No.26237 OF 2019

ORDER:

The present Writ Petition is filed to declare the action of the 5th respondent in not registering the FIR against respondent Nos.6 and 7 as per written complaint made on 13.02.2016, as being illegal, arbitrary and contrary to the judgment of the Hon'ble Supreme Court in **Lalitha Kumari v. Government of U.P.**

Heard Sri V. Ganesh Bhujanga Rao, learned Counsel for the petitioner and learned Assistant Government Pleader for Home.

It is the case of the petitioner that the petitioner claims to have made a complaint to the 5th respondent by his letter dated 13.02.2016, sent by RPAD, apprehending danger to his life at the hands of Respondent Nos. 6 and 7, since, the petitioner claims to have made a complaint to Upa Lokayukta, with regard to the cheating, misguiding and fraud played against the court of law with regard to the security furnished by the respondent Nos.6 and 7 in O.S. No.28 of 2012 on the file of District Judge, Bhongir (FAC) in a money recovery suit, being less than the value specified with a malafide and ill-intention. The respondent Nos.6 and 7 on coming to know about the complaint made by the petitioner to the Upa Lokayukta with regard to criminal conspiracy and illegal high handed acts, the said respondents are threatening the petitioner with dire-consequences to withdraw the case, failing which, they would see the petitioner's end.

Learned Assistant Government Pleader for Home on the basis of written instructions dated 16.12.2019 submits that upon

receiving the complaint from the petitioner, a case was registered in Crime No.147 of 2016 of Yadagirigutta police station on 14.07.2016 and the 5th respondent authority took up investigation in the matter. In the course of investigation, witnesses were examined and their statements were recorded and after completion of investigation, the case was referred as civil in nature.

Learned Assistant Government Pleader for Home would also submit that in the above case registered as Crime No. 147 of 2016, the 5th respondent authority filed a final report before the Judicial Magistrate of Ist Class, Alair, on 05.12.2019 after serving a notice dated 20.05.2019 to the petitioner. Learned Assistant Government Pleader for Home filed a copy of the notice dated 20.05.2019 served on the petitioner, whereupon the petitioner has affixed his signature in acknowledgment of receipt of the said notice on 24.05.2019.

Learned Assistant Government Pleader for Home would further submit that despite the petitioner having received the notice with regard to the investigation into the Crime No.147 of 2016 being referred as civil in nature and a final report having been filed into the Judicial Magistrate's Court, the petitioner chose to file the present Writ Petition on 25.11.2019 by alleging inaction of the 5th respondent in registering the crime, by suppressing the fact of receipt of notice dated 20.05.2019 served on the petitioner on 24.05.2019. Learned Assistant Government Pleader for Home would further submit that if the petitioner is aggrieved by the said notice issued by the 5th respondent, the petitioner ought to have approached the concerned Court wherein a final report has been

filed, by filing a protest petition. Instead of approaching the concerned Court, the petitioner by suppressing the facts has filed the present Writ Petition and the same is liable to be dismissed.

When the matter was initially taken up for hearing on 26.12.2019, this Court pointed out to the learned Counsel for the petitioner about the notice dated 20.05.2019 in Crime No.147 of 2019 having been issued to the petitioner. The learned Counsel for the petitioner submitted that he is instructed by his client to submit that the FIR No.147 of 2016 relates to another matter and the same has nothing to do with the complaint made by the petitioner on 13.02.2016 and sought time to get further instructions. Accordingly, the matter was directed to be listed on 13.12.2019 under the caption '*for orders*'. Thus, when the matter was taken up on 30.12.2019, learned Counsel for the petitioner while admitting that the notice in Crime No.147 of 2016 dated 20.05.2019 has been received by his client, however, would submit that the same is unconnected with the complaint made by the petitioner on 13.02.2016.

When this Court was called upon the petitioner's Counsel to indicate as to which case/complaint of the petitioner, the above Crime No.147 of 2016 is related to, the petitioner's Counsel was unable to produce any information/material thereto. On the other hand, learned Assistant Government Pleader for Home produced a copy of the complaint dated 13.02.2016 made by the petitioner received through Registered Post, indicating that the 5th respondent on receipt of the said complaint on 24.02.2016 made a G.D. entry. The further endorsement on the record as placed

before this court in relation to the above complaint indicates that after preliminary enquiry and collecting documents produced by the respondent Nos.6 and 7 into the Court as the petitioner complaint relates to the value of such properties being lower than the security directed to be furnished, the 5th respondent authority registered a case in Crime No.147 of 2016 and took up investigation thereon. Learned Assistant Government Pleader for Home also placed before this Court the statement of the petitioner recorded by the Sub-Inspector of Police of the 5th respondent police station on 14.07.2016 in connection with the complaint made by the petitioner.

A perusal of the above documents placed before this Court would clearly indicate that based on the complaint made by the petitioner dated 13.02.2016, the 5th respondent authority initially made a G.D. entry and after preliminary enquiry, registered a case vide Crime No.147 of 2016 and took up investigation in the matter. As the investigation indicated that the dispute complained is civil in nature, as it relates to recovery of monies being claimed by the petitioner from respondent Nos.6 and 7 and the security offered by the respondent Nos.6 and 7 to the concerned Court being of a lesser value than the value as being claimed by the respondent Nos.6 and 7, the case was referred as civil in nature. Though, the petitioner having received the notice in the above crime informing the result of investigation as civil in nature as back as on 25.04.2019, approached this Court in November by filing the present Writ Petition, after six months by suppressing the fact of the receipt of the notice dated 20.05.2019 informing of closure of the case as civil in nature and on the other hand alleged inaction

on part of the 5th respondent in dealing the complaint dated 13.02.2016.

Further, when it was also pointed out about such notice having been issued to the petitioner, learned Counsel for the petitioner vehemently stated that the said notice issued by the 5th respondent authorities in Crime No.147 of 2016 is not related to the complaint made by the petitioner on 13.02.2016, but failed to show any other case complained by the petitioner in the jurisdiction of 5th respondent to which the said notice could relate to. Thus, the claim of the petitioner that the 5th respondent authority has not registered a case based on the complaint of the petitioner dated 13.02.2016 is without basis and is liable to be rejected.

It is also to be seen that for invoking jurisdiction under Article 226 of the Constitution of India, the party approaching the Court should come with clean hands and should not resort to suppression. In the facts of the present case, the petitioner on one hand while suppressing the fact of receipt of the notice dated 20.05.2019 received on 24.05.2019 whereby the 5th respondent has informed the petitioner that the investigation into Crime No.147 of 2016 being closed as civil in nature, on the other hand filed the present Writ Petition claiming inaction on the part of the 5th respondent in acting on the complaint of the petitioner dated 13.02.2016, only demonstrates that the petitioner did not approach this court with clean hands and has resorted to suppression. For the said reason also, the petitioner is not entitled for any indulgence being shown by this Court. Thus, the Writ

Petition is without any merit and is dismissed with costs of Rs.5,000 (Rupees five thousand only) to be paid to the Telangana State Legal Services Authority.

As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.

JUSTICE T.VINOD KUMAR

Date: 22.01.2020.

MRKR

