

THE HON'BLE SRI JUSTICE T.VINOD KUMAR

WRIT PETITION No.29082 of 2019

ORDER:

The present writ petition is filed to declare action of the third respondent in not taking action on the petitioner's reply/request, dated 29.11.2019, which was submitted to the notice under Section 91 of Cr.P.C, dated November, 2019 of the seventh respondent in connection with F.I.R.No.98/2019, dated 12.10.2019, as illegal and arbitrary and for a direction for change of I.O in the place of seventh respondent as the said seventh respondent is not investigating the matter properly and colluded with unofficial respondents and to take disciplinary action against the said seventh respondent.

2. Heard learned counsel for the petitioner and the learned Assistant Government Pleader for Home for respondents 1 to 7.

3. It is seen from the documents filed into this Court that on the basis of the complaint made by the petitioner on 12.01.2019 wherein it is alleged that during petitioner's absence the people named in the complaint entered into her house and have illegally occupied her house by throwing out her belongings and a case is registered in Cr.No.98 of 2019. Further, by the said complaint, it is also stated that the people named in the complaint have stolen 10 tulas of gold equivalent to Rs.3,00,000/- cash, important Court documents and card. It is also stated therein that in spite of the petitioner having an order from the Court in her favour, the unofficial respondents have illegally trespassed into her house and committed theft and also have thrown her belongings out form the house and accordingly sought for action.

4. Based on the complaint made a case in Cr.No.98 of 2019 was registered and the seventh respondent authority in the course of investigation has issued a notice under Section 91 Cr.P.C to the petitioner asking the petitioner to produce relevant documents/information mentioned therein for the purpose of investigation and in turn the petitioner complainant submitted a reply on 29.11.2019 without furnishing any documents or information as sought for in the notice under Section 91 Cr.P.C. On the other hand, the petitioner had made allegations against the seventh respondent by stating that the said authority is asking for unnecessary information and sought for change of the investigating officer by entrusting the case to the higher police officer and also take necessary action against I.O/seventh respondent for dereliction of his official duty. A copy of the said reply has been marked by the petitioner to respondents 3 to 5 in addition to 7th respondent.

5. Learned Assistant Government Pleader for Home has placed before the Court written instructions dated 29.01.2020. By drawing attention of the Court to the said written instructions, learned Assistant Government Pleader submits that based on the said reply furnished by the petitioner the investigating officer could not proceed further with the investigation. It is stated that in the absence of such information forthcoming from the petitioner, no fault can be found with the seventh respondent authority and the seventh respondent authority is conducting the investigation properly, sincerely and in an impartial manner.

6. Insofar as the claim of the petitioner with regard to change of I.O is concerned, as seen from the above submissions that the petitioner without even furnishing basic information in response to the notice issued under Section 91 of Cr.P.C, on the other hand, sought to make allegations

against the investigating officer. Had the petitioner furnished information as sought for by the respondent authorities for proceeding with the investigation, it would be open for the petitioner to allege inaction on the part of the respondent authorities. Since the petitioner herself did not furnish the information, it is not open for the petitioner now to turn around and claim that the respondent authorities are not investigating into the case properly or investigating in a bias manner, so as to seek for change of I.O.

7. Having regard to the above, the present writ petition has been filed without any merit and it is accordingly dismissed. Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

Date: 11.02.2020
grk

JUSTICE T. VINOD KUMAR

