APHC010312882026

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)

FRIDAY, THE 30th DAY OF OCTOBER 2026
PRESENT

THE HONOURABLE SRI JUSTICE MAHESWARA RAO KUNCHEAM

WRIT PETITION NO: 16794 OF 2026

Between:
1. Kesana Vasantha, D/o. Kesana Srinivasa Rao, Aged about 24 years, R/o. Door No. 25-1-43, Wharf Road, Fraserpeta, Kakinada Rural, East Godavari District, presently residing at Kanuru, Vijayawada, Mobile 9989924796.

...Petitioner

AND

1. The State of Andhra Pradesh, represented by its Principal Secretary, Home Department, Secretariat, Velagapudi, Amaravathi - 522238.
2. The Director General of Police, Vijayawada-Guntur Highway, Mangalagiri, Guntur District - 522503.
3. The Commissioner of Police, Police Commissionerate, Vijayawada City, N.T.R. District-520002.
4. The Station House Officer, Patamata Police Station, Vijayawada City, N.T.R. District - 520007. .
5. Gadde Karthik, S/o. G. Sankararao, aged about 30 years, R/o. 1-3b, Maredubaka Village, Kukunoor Mandal, West Godavari District - 507114

...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 a direction or a writ, more particularly one in the nature of Writ of Mandamus declaring the action of the Respondent Nos. 2 to 4 in not taking any action against the unofficial respondent No. 5 and his family members upon the complaint made by the Petitioner on dated 17.06.2026 and in not registering the crime against the unofficial respondent

No. 5 and his family members as illegal, arbitrary and unconstitutional, and to consequently direct the Respondent Nos. 2 to 4 to register the crime against the unofficial respondent No. 5 and his family members, and to pass

IA NO: 1 OF 2026

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 4 to take action against the unofficial respondent No. 5 and his family members upon the complaint made by the Petitioner on dated 17.06.2026, pending disposal of the main writ petition, and to pass

Counsel for the Petitioner: MULLA SOHAIL SHAREEF

Counsel for the Respondents: GP FOR HOME

THE HONOURABLE SRI JUSTICE MAHESWARA RAO KUNCHEAM

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The Court made the following Order:

Instant Writ Petition has been filed under Article 226 of the Constitution of India seeking the following relief:

> *"to issue a Writ of Mandamus or any other appropriate writ, order or direction, more particularly one in the nature of Mandamus declaring the action of the Respondent Nos. 2 to 4 in not taking any action against the unofficial respondent No. 5 and his family members upon the complaint made by the Petitioner on dated 17.06.2026 and in not registering the crime against the unofficial respondent No. 5 and his family members as illegal, arbitrary and unconstitutional, and to consequently direct the Respondent Nos. 2 to 4 to register the crime against the unofficial respondent No. 5 and his family members and to pass".*

2. Heard learned counsel for the petitioner and learned Assistant Government Pleader for Home appearing on behalf of Respondent/State and perused the material placed available on record.

3. Conspectus of facts in the present Writ Petition is that, despite the petitioner's complaint to the police personnel, the respondent police are not acting upon the same by registering an FIR, thereby lodging criminal proceedings.

4. Learned Assistant Government Pleader for Home, basing on the written instructions of the Respondent/Police, submits that preliminary enquiry of the

police reveals that the petitioner's complaint does not disclose commission of any cognizable offence. As such, Writ Petition itself is not maintainable.

5. Now, coming to the central issue in the *lis,* despite the petitioner's complaint, the police are not registering an FIR; the aggrieved party directly initiating proceedings before the Hon'ble High Court under Article 226 of the Constitution of India or Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 corresponding to Section 482 of the Code of Criminal Procedure, 1973.

6. In this juncture, it is appropriate to note that the issue involved in the present *lis*, is squarely covered by the Order of this Court dated 23.07.2026 in WP No.18425 of 2026, wherein this Court appreciated the facts and law by taking into consideration of the dictums laid down by the Apex Court including latest expression held in ***Sujal Vishwas Attavar and another vs. State of Maharashtra and others***[1], wherein it was held as under:

> *"7. Keeping in view the above exposition of law, we find that the extraordinary jurisdiction under Article 226 of the Constitution of India ought not to have been invoked when alternative equally efficacious statutory remedies were available. If a person has a grievance that his FIR has not been registered by the police, or having been registered, proper investigation is not being conducted, then the remedy does not ordinarily lie in invoking the writ jurisdiction in the first instance, but in seeking recourse to the statutory framework, unless of course the urgency of the circumstances warrant otherwise.*

[1] 2026 SCC OnLine SC 798

8. The Bharatiya Nagarik Suraksha Sanhita 2023 (erstwhile Code of Criminal Procedure, 1973) provides a structured sequential mechanism for initiating criminal prosecution. The statutory framework contemplates that information relating to the commission of a cognizable offence is first placed before the officer-in-charge of the police station and an FIR is registered under Section 173(1) BNSS. In the event of refusal to register the FIR, recourse lies before the jurisdictional Superintendent of Police under Section 173(4) BNSS and, thereafter, before the Magistrate, under Section 175(3) BNSS.

9. xxxx.

10. xxxx.

11. The High Court is not bound to entertain a writ petition merely because a case of alleged inaction or negligence is made out against a statutory authority. Ordinarily, where a statute provides a complete and efficacious remedy, the same must be exhausted before invoking constitutional jurisdiction [See: Sakiri Vasu (supra) and Sudhir Bhaskarrao Tambe (supra)]. In the present facts, the complainant Company has not exhausted the sequential statutory remedies available under BNSS. There is, therefore, no foundation to invoke the extraordinary jurisdiction of the High Court for the reason that efficacious and efficient alternative remedies exists. Hence, at this stage, we find the instant writ petition to be premature, and, therefore, not fit to be entertained."

7. Accordingly, by applying the above ratio to the present case too, this Writ Petition is disposed of as under:

i) Liberty is granted to the petitioner to approach the learned jurisdictional Magistrate by filing appropriate complaint under Section 175(3) and 210 read with 223 of BNSS, 2023.

ii) This Court has not expressed any opinion on merits and whether or not the complaint discloses criminal offences.

iii) Equally, it will be open to all the stakeholders to avail remedies in terms of the statutory realm."

There shall be no order as to costs.

8. Registry is directed to append a copy of the Order of this Court dated 23.07.2026 in WP No.18425 of 2026 along with the instant order.

Interlocutory applications, if any, pending shall stand closed.

JUSTICE MAHESWARA RAO KUNCHEAM

Date: 30.10.2026
PSA

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