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APHC010548132022

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI [3604]
(Special Original Jurisdiction)

THURSDAY, THE 5th DAY OF NOVEMBER 2026

PRESENT

THE HONOURABLE SMT JUSTICE SUNITHA GANDHAM

WRIT PETITION NO: 33567 OF 2022

Between:

1. K.MANOGNA KUMAR, S/O JOHN WILSON, AGED ABOUT 53 YEARS, OCC- SECRETARY, JMB CHURCH, R/O. D.NO. 51-1-43, 3RD LANE, RAILPETA, ONGOLE TOWN ONGOLE, PRAKASAM DISTRICT.
2. BAKKA ARUNA, W/O. THELLA SHAM KUMAR, AGED 55 YEARS, OCC- TREASURER ,JMB CHURCH, ONGOLE, RIO. SAI PARADISE APARTMENTS, KOPPOLU ROAD, ONGOLE, PRAKASAM DISTRICT

...PETITIONER(S)

AND

1. THE STATE OF ANDHRA PRADESH, REP. BY ITS PRINCIPAL SECRETARY TO GOVERNMENT, HOME DEPARTMENT, SECRETARIAT, VELAGAPUDI, AMARAVATI, GUNTUR DISTRICT.
2. THE STATION HOUSE OFFICER, II TOWN POLICE STATION, ONGOLE, PRAKASAM DISTRICT.
3. SRI KOMMALAPATI RAVI, S/O VENKATESWARLU, AGED ABOUT 42 YEARS, R/O MAMIDIPALEM, ONGOLE, PRAKASAM DISTRICT, ANDHRA PRADESH.

...RESPONDENT(S):

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 topleased to issue a writ, order or direction more particularly one in

the nature of writ of certiorari to call for the records relating to FIR No. 119/2022 on the file of the II Town Police Station, Ongole, Prakasam District and quash the docket order dated 21.7.2022 in CFR No.955/2022 on the file of the II Additional Judicial Magistrate, ongole, Prakasam District., and the consequential investigation in Crime No. 119/2022 on the file of the II Town Police Station, Ongole, Prakasam District in the interest of justice

IA NO: 1 OF 2022

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 pleased to dispense with the filing of certified copy of the docket order dated 21.7.2022 in C.F.R.No.955 of 2022 on the file of II Additional Judicial Magistrate of First Class, Ongole and pass

IA NO: 2 OF 2022

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 pleased to grant stay of all further proceedings, investigation. including arrest of the petitioners in Crime No. 119/2022 on the file of the II Town Police Station, Ongole, Prakasam District pending disposal of the writ petition in the interest of justice

Counsel for the Petitioner(S):

1. SOMISETTY GANESH BABU

Counsel for the Respondent(S):

1. GP FOR HOME
2. VENKATESWARLU GADA

The Court made the following:

THE HON'BLE SMT. JUSTICE SUNITHA GANDHAM

WRIT PETITION NO:33567 OF 2022

ORDER:

This writ petition is filed to quash the docket order dated 21.07.2022 passed in CFR No.955 of 2022 on the file of the Court of the II Additional Judicial Magistrate of First Class, Ongole, Prakasam District.

2. The case of the petitioners, in brief, is as follows:

(a). The JMB Church is a minority religious institution registered under the provisions of the Societies Registration Act, 1860. Its members are devotees of Lord Jesus Christ and have been worshipping in the church premises. The society has a lawfully elected body, namely, the Standing Committee, to administer its affairs in accordance with its bye-laws. The first petitioner is the Secretary and the other petitioners are members of the society. They have been lawfully conducting the affairs of the church. If there are any allegations of misappropriation of funds or violation of the bye-laws, the Audit Committee is competent to take appropriate action against the committee members, as provided under Clause 7 of the bye-laws. An interim order was also passed in W.P.No.12111 of 2020, restraining the official respondents from interfering with the administration of the church.

(b). Respondent No.3 filed a private complaint alleging that the petitioners, while working as Secretary and Treasurer of JMB Church, Ongole, withdrew and misappropriated the church funds to the tune of Rs.2.5 crores. The respondent No.3 did not file any affidavit along with the complaint and that the learned Magistrate, without following the procedure prescribed by law, forwarded the complaint to the respondent No.2 under Section 156(3) Cr.P.C. Consequently, a case was registered in Crime No.119 of 2022 for the offences punishable under Sections 420, 406, 411, 120-B, 379 and 403 IPC.

3. Respondent No.2 filed counter-affidavit contending that the petitioners committed the alleged offences and that, pursuant to the complaint forwarded by the learned Magistrate, a case was registered in Crime No.119 of 2022 and during the investigation, the Investigating Officer examined respondent No.3 and other witnesses and recorded their statements, and subsequently, the investigation was entrusted to the Sub-Divisional Police Officer, Ongole, who also examined certain witnesses, recorded their statements and issued a notice to petitioner No.1 under Section 91 Cr.P.C., requiring him to furnish certain documents. That the disputes exist among the members of the church and that several writ petitions have also been filed in connection with those disputes.

4. Heard Sri Somisetty Ganesh Babu, learned counsel for the petitioners, and Sri Rudra Mallikharjuna, learned Assistant Government Pleader for Home. Perused the material available on record.

5. Learned counsel for the petitioners contended that the learned Magistrate ought to have followed the guidelines laid down by the Hon'ble Supreme Court in ***Priyanka Srivastava v. State of Uttar Pradesh***[1], before forwarding the complaint under Section 156(3) Cr.P.C., their tenure as committee members had already expired, that the church remained closed during the COVID-19 pandemic and that disputes arose between two groups of members, elections have not been conducted till date and the allegations do not attract the ingredients of the offences alleged against them.

6. While referring to the judgment of the coordinate Bench of this Court in ***Kaluva Kumar v. State of Andhra Pradesh*** [2], the learned Assistant Government Pleader submitted that the proceedings in Crime No.119 of 2022 may be quashed and the matter may be remitted to the learned Magistrate for

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[1] (2015) 6 SCC 287

[2] Crl.P. No. 4229 of 2019

fresh consideration in accordance with the principles laid down by the Hon'ble Supreme Court in ***Priyanka Srivastava's*** case.

7. The point that arises for consideration is whether the docket order dated 21.07.2022 passed by the learned II Additional Judicial Magistrate of First Class, Ongole, forwarding the private complaint to the police under Section 156(3) Cr.P.C., is sustainable in the absence of compliance with the guidelines laid down by the Hon'ble Supreme Court in ***Priyanka Srivastava's*** case.

8. As seen from the record, respondent No.3 filed a private complaint before the learned II Additional Judicial Magistrate of First Class, Ongole, under Sections 190 and 200 Cr.P.C and the learned Magistrate forwarded the said complaint to the Station House Officer, II Town Police Station, Ongole, under Section 156(3) Cr.P.C vide docket order dated 21.07.2022 and pursuant thereto, the police registered a case in Crime No.119 of 2022 for the offences referred to above. Aggrieved by the said order, the petitioners have filed the present writ petition.

9. The main objection raised by the learned counsel for the petitioners is that without insisting upon an affidavit from the complainant and without following the procedure laid down by the Hon'ble Supreme Court ***in Priyanka Srivastava's*** *case,* the learned Magistrate forwarded the complaint under Section 156(3) Cr.P.C. In that case, the Hon'ble Supreme Court emphasised that an application under Section 156(3) Cr.P.C. should not be entertained in a routine manner and the Magistrate is required to apply judicial mind before directing an investigation. Further, the complainant must first avail the remedies available under Sections 154(1) and 154(3) Cr.P.C. and place the relevant material before the Magistrate and the application under Section 156(3) Cr.P.C. must also be supported by an affidavit of the complainant. It is further observed that the Magistrate must be satisfied that the application deserves consideration and that the power under Section 156(3) Cr.P.C. should be exercised after due application of mind and that the requirement of

an affidavit is not an empty formality but an important safeguard against the misuse of the process of law.

10. Record reveals that after hearing the learned counsel for the complainant, the learned Magistrate simply forwarded the complaint to the Station House Officer, II Town Police Station, Ongole, under Section 156(3) Cr.P.C vide docket order dated 21.07.2022. There is no reference in the docket order to the filing of an affidavit by the complainant. There is also no indication that the learned Magistrate examined whether the complainant had first approached the police authorities under Sections 154(1) and 154(3) Cr.P.C. or whether the requirements laid down by the Hon'ble Supreme Court in Priyanka Srivastava's case had been complied with. Admittedly, the Magistrate is empowered under Section 156(3) Cr.P.C. to direct the police to investigate a cognizable offence, however, such power cannot be exercised mechanically and the Magistrate is required to consider the material placed before the Court and record satisfaction regarding the necessity for directing an investigation, and the mere filing of a private complaint does not automatically justify forwarding the same to the police under Section 156(3) Cr.P.C. In the present case, the docket order does not disclose any consideration of the above requirements. In the absence of such consideration, the forwarding of the complaint to the police cannot be sustained. The objection raised by the learned counsel for the petitioners, in this regard, therefore, deserves consideration.

11. Learned Assistant Government Pleader fairly submitted that, instead of examining the allegations on merits at this stage, the matter may be remitted to the learned Magistrate for fresh consideration in accordance with the guidelines laid down in ***Priyanka Srivastava's*** case. This Court finds considerable force in the said submission. The defect in the present case relates to the procedure adopted by the learned Magistrate while forwarding the complaint under Section 156(3) Cr.P.C. The learned Magistrate has not recorded any satisfaction regarding compliance with the requirements laid

down by the Hon'ble Supreme Court. Therefore, the appropriate course would be to set aside the docket order and remit the matter to the learned Magistrate for fresh consideration in accordance with law.

12. It is also relevant to note that the police have already registered Crime No.119 of 2022 and commenced investigation pursuant to the impugned docket order which is under challenge, however, the subsequent registration of the crime and the progress made in the investigation cannot cure the procedural defect. Therefore, the consequential proceedings arising out of the impugned docket order cannot be permitted to continue on the basis of an order that is not sustainable in law. At the same time, this Court makes it clear that the allegations made by respondent No.3 require consideration by the competent Court in accordance with law. The present proceedings are not an appropriate stage to examine whether the petitioners have actually misappropriated the funds of the church or whether the allegations attract the ingredients of the offences alleged against them. Those questions are left open for consideration by the competent Court, if the matter is proceeded with in accordance with law.

13. It is also made clear that the learned Magistrate shall not be influenced by any of the observations made in this order while considering the complaint afresh. The learned Magistrate shall independently examine the complaint and the material placed before him, including compliance with the requirements laid down in ***Priyanka Srivastava's*** case, and pass an appropriate order in accordance with law. If the complainant seeks to pursue the complaint under Section 156(3) Cr.P.C., the learned Magistrate shall ensure compliance with the statutory requirements and the guidelines laid down by the Hon'ble Supreme Court. The complainant shall also be given an opportunity to place the necessary material before the Court.

14. In the result, and for the foregoing discussion, the writ petition is allowed, and the docket order dated 21.07.2022 passed in CFR No.955 of

2022 passed by the II Additional Judicial Magistrate of First Class, Ongole, is hereby set aside. Consequently, the proceedings in Crime No.119 of 2022 of II Town Police Station, Ongole, Prakasam District, arising out of the said docket order, are also quashed. The matter is remitted to the learned Magistrate for fresh consideration of the private complaint in accordance with law and in the light of the principles laid down by the Hon'ble Supreme Court in ***Priyanka Srivastava*** (supra). There shall be no order as to costs.

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

SUNITHA GANDHAM, J

Dated: 05.11.2026
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THE HONOURABLE SMT JUSTICE SUNITHA GANDHAM

WRIT PETITION No. 33567 OF 2022

Date: 05.11.2026

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