

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

WEDNESDAY, THE THIRTIETH DAY OF SEPTEMBER
TWO THOUSAND AND TWENTY

PRESENT

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION NO: 16229 OF 2020

Between:

Sirigiri Kishore Kumar, S/o Shanker, aged about 40 years, occ. Government Contractor r/o H.No. 1-7-578/2, Shastri Nagar, Ramnagar, Zamistanpur, Musheerabad Mandal, Hyderabad.

...PETITIONER

AND

1. The State of Telangana, rep. by its Principal Secretary, Home Department, Secretariat, Hyderabad.
2. The Superintendent of Police, Rajanna Sircilla District.
3. The Station House Officer, Sircilla Police Station, Rajanna Sircilla District.

...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 appropriate Writ, Order or Direction, more particularly one in the nature of Writ of Mandamus, to declare the inaction of the respondent Nos. 2 and 3 herein in taking action against the culprits pursuant to the complaints dt. 9/9/2020 and 15/9/2020 as being illegal, arbitrary, unjust and unconstitutional and consequently direct the respondent Nos. 2 and 3 herein to forthwith act upon the complaints dt. 9/9/2020 and 15/9/2020 and take action in accordance with Law

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 pass orders directing the respondent Nos. 2 and 3 herein to register the FIR against the culprits pursuant to the complaints dt. 9/9/2020 and 15/9/2020, pending disposal of the main Writ Petition

Counsel for the Petitioner: SRI THIMMAJIPETA SATYANARAYANA

Counsel for Respondents: AGP FOR HOME

The Court made the following: ORDER

HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION NO.16229 of 2020

ORDER:

Heard learned counsel for the petitioner and learned Assistant Government Pleader for Home.

2. Petitioner claims that he has been undertaking civil works of the Government. Petitioner came to know that three crimes were registered on 14.01.2020 making false allegations against him. According to petitioner, because of the false complaints registered against him, his image is tarnished and because of registration of illegal crimes, the Government Officials are apprehensive of entrusting civil works to him. He therefore, alleges that by such conduct, the persons who lodged complaints against the petitioner have violated the provisions of SC/ST (Prevention of Atrocities) Act 1989 (Act 33 of 1989) and are therefore, liable to be punished under the Act 33 of 1989. Stating so, petitioner lodged complaint on 09.09.2020 before the Station House Officer, Sircilla Police Station, Rajanna Sircilla District. It seems that the complaint is followed by representation dated 15.09.2020 to the Superintendent of Police, enclosing a copy of the complaint requesting him to direct the Station House Officer to act upon the complaint already lodged by him. Alleging in action, this writ petition is filed.

3. Learned counsel for petitioner contends that police cannot refuse to register crime under the Act 33 of 1989 and are bound to follow the time frame prescribed in the Act. Thus, the action of the respondent-Police in not entertaining the complaint filed by him and not

investigating into the crime reported by him is contrary to the mandate of Act 33 of 1989.

4. Having noticed that the atrocities against SCs and STs are increasing day by day and the provisions in Civil Rights Act, 1955 and the Indian Penal Code are found to be inadequate and to protect the SCs and STs from atrocities committed against them in various forms, the Act 33 of 1989 was made. The primary objective to make this Act is to check the crimes as well as to deter the crimes against SCs and STs. On review of functioning of the Act, by Act 1 of 2016, the Act 33 of 1989 was further amended.

5. The Act seeks to fast track the investigation, filing of charge sheet and conducting trial. It also envisaged establishing Special Courts headed by Officer of the District Judge cadre. Section 4 of the Act, prescribes procedure required to be followed by a public servant on receiving information about committing offence under the Act 33 of 1989 and also stipulates the timeline for completing the investigation, whenever a crime is reported alleging violation of the provisions of the Act. It mandates to complete the investigation and filing of charge sheet in the Special Court within a period of 60 days from the date of registration of the crime. If there is delay in the investigation and filing of charge sheet, the Investigating Officer has to satisfy the Special Court the reasons for delay in investigation. According to sub-section (3) of Section 4, the Special Court can take cognizance on dereliction of duty by the public servant and can give directions to initiate penal proceedings against him. According to sub-section (1) of Section 4, if

there is willful neglect of duties required to be performed by the investigating officer under the Act and the Rules made there under, he is punishable with imprisonment for a term which shall not be less than six months. After the amendment to Section 14 by Act 1 of 2016, the Special Court is vested with power to take cognizance of the offences reported under the Act. These provisions are in addition to the Code of Criminal Procedure.

6. As noticed above, the Special Court is vested with wide powers under the Act 33 of 1989 read with provisions of Code of Criminal Procedure, to deal with cases of atrocities against SCs and STs and matters arising there from. Unlike other crimes, it has power to take cognizance of the crime reported under the Act 33 of 1989. From cumulative reading of these provisions, it is apparent that the Special Court can go into the aspect of delay in completing the investigation into the crime of atrocity and filing of charge sheet and if the Special Court is satisfied that the delay in investigation and filing of charge sheet was deliberate and amounted to willful neglect of duties by the public servant, it can order for his prosecution and to punish him. Thus, the Special Court shall have all material facts in issue at his command to assess and shall be competent to go into all aspects and regulate the institution and finalization of investigation if matter is brought before it and to take appropriate decision.

7. It is also the consistent view of the High Courts in the country that after the amendment to Act 33 of 1989 by Act 1 of 2016, the Special Court is vested with wide powers including power to take cognizance of

the crime reported under the Act 33 of 1989.-(Achla D Sapre Vs Asha Mahilkar¹; Amarendra Nath Tewary Vs Basana Lohar²; and Sumit Vs State of UP³.)

8. It cannot be said that the remedy provided under the Act is not an efficacious remedy. When petitioner has statutorily engrafted redressal mechanism to redress his grievance, this Court is not inclined to entertain the writ petition.

9. Thus, leaving it open to petitioner to work out remedies available in law against non registration of crime reported under the Act 33 of 1989, the Writ Petition is dismissed. Pending miscellaneous petitions, if any, shall stand closed.

¹ 2016 SCC online Chh 294

² CRR 3244 of 2018/CRAN 1504 of 2019 Calcutta HC dt 22-5-2019

³ App U/S 482 No 491 of 2020 Allahabad HC dt 5-3-2020

//TRUE COPY//

SD/-I.NAGALAKSHMI
ASSISTANT REGISTRAR

CH. Ch.
SECTION OFFICER

To,

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

MBC

V. d.

HIGH COURT

DATED: 30/09/2020



ORDER

WP.No.16229 of 2020

DISMISSING THE WRIT PETITION

WITHOUT COSTS

⑤ VLW
12/10/20