

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

WEDNESDAY, THE THIRTY FIRST DAY OF JULY
TWO THOUSAND AND TWENTY FOUR



PRESENT

THE HONOURABLE SMT JUSTICE VENKATA JYOTHIRMAI PRATAPA

CRIMINAL REVISION CASE NO: 404 OF 2024

Revision filed under Section 397 & 401 of Cr.P.C., praying that in the circumstances stated in the affidavit filed in support of the Criminal Revision Case, the High Court may be pleased to set aside the disposal order dated 25-04-2024 passed in CrI.M.P No. 152/2024 in Crime No. 222/2024 of East Police Station, Tirupati on file of Hon'ble II Additional Judicial Magistrate of First Class - cum - II Additional Civil Judge, Tirupati filed under Section 156 (3) Code of Criminal Procedure by duly allowing the petition.

Between:


P V Rajyalakshmi, aged about 74 years, W/o N. Syamasundara Naidu,
D. No.19-14-11, Raghavendra Nagar, Kesavayanagunta, Tirupati Town,
Chittoor District, A.P.

...Revision Petitioner

AND

Investigation Officer, Crime No. 222/2024, East Police Station, Tirupati
On behalf of the State of Andhra Pradesh Rep. by Public Prosecutor
High Court of Andhra Pradesh at Amaravathi.

...Respondent



Counsel for the Petitioner: Sri. Namineni Pavan Kumar

Counsel for the Respondent: Public Prosecutor (AP)

The Court made the following:

IN THE HIGH COURT OF ANDHRA PRADESH: AMARAVATI

* * * *

CRIMINAL REVISION CASE No. 404 of 2024

Between:

P.V.Rajyalakshmi,
aged about 74 years, W/o.N.Syamasundara Naidu,
D.No.19-14-11, Raghavendra Nagar, Kesavayanagunta, Tirupati
Town, Chittoor District, A.P.

...petitioner

Vs.

INVESTIGATION OFFICER,
Crime No.222/2024, East Police Station, Tirupati On
behalf of the State of Andhra Pradesh Rep. by Public Prosecutor
High Court of Andhra Pradesh at Amaravathi

...Respondent

DATE OF JUDGMENT PRONOUNCED : 31.07.2024

SUBMITTED FOR APPROVAL

HON'BLE SMT. JUSTICE VENKATA JYOTHIRMAI PRATAPA

- | | |
|-----------------------------------------------------------------------------------|--------|
| 1. Whether Reporters of Local Newspapers
may be allowed to see the Judgments ? | Yes/No |
| 2. Whether copies of Judgment may be
marked to Law Reporters/Journals ? | Yes/No |
| 3. Whether Your Lordships wish to see the
fair copy of the Judgment ? | Yes/No |

* HON'BLE SMT. JUSTICE VENKATA JYOTHIRMAI PRATAPA

+ CRIMINAL REVISION CASE No.404 OF 2024

% 31.07.2024

Between:

#P.V.Rajyalakshmi,
aged about 74 years, W/o N.Syamasundara Naidu,
D.No.19-14-11, Raghavendra Nagar, Kesavayanagunta, Tirupati
Town, Chittoor District, A.P.

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Va.

INVESTIGATION OFFICER,
Crime No.222/2024, East Police Station, Tirupati On
behalf of the State of Andhra Pradesh Rep. by Public Prosecutor
High Court of Andhra Pradesh at Amaravathi

...Respondent

! Counsel for the Petitioner	: Sri Pavan Kumar Namineni,
^ Counsel for the Respondent	: Learned Assistant Public Prosecutor

< Gist :

> Head Note:

? Cases Referred:

1. 2008(2) SCC 409
2. (2022) 18 S.C.R.163
3. (2011) 12 SCC 328
4. (2016) 6 SCC 277
5. AIRONLINE 2020 SC 387
6. 2019 SCC OnLine SC 1346
7. Misc.Criminal Case No.44485 of 2020 Madhya Pradesh High Court,
dt.25.03.2021
8. (2022) 9 SCC 321

APHC010204442024



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

[3396]

WEDNESDAY, THE THIRTY FIRST DAY OF JULY
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE SMT JUSTICE VENKATA JYOTHIRMAI PRATAPA

CRIMINAL REVISION CASE No. 404 of 2024

Between:

P V Rajyalakshmi

...PETITIONER

AND

Investigation Officer

...RESPONDENT

Counsel for the Petitioner:

1. NAMINENI PAVAN KUMAR

Counsel for the Respondent:

1. PUBLIC PROSECUTOR (AP)

The Court made the following:**ORDER:**

1. This Criminal Revision Case is filed under Sections 397 and 401 of the Code of Criminal Procedure Code, 1973¹, impugning the order dated 25.04.2024 passed in CrI.M.P.No.152 of 2024 on the file of the Court of II Additional Judicial Magistrate of I Class-cum-II Additional Civil Judge (Junior Division), Tirupati,² wherein, while disposing of the CrI.M.P., the learned Magistrate directed the Investigating Officer to look into the grievance of the Petitioner in connection with the Crime No.222 of 2024 of East Police Station,

¹ Hereinafter referred to as "the Code"

² Hereinafter referred to as "Magistrate Court/Trial Court"

Tirupati, registered for the offence under Sections 354, 427, 506 and 509 read with Section 34 of the Indian Penal Code, 1860.³

2. The factual background, as borne out from the record, is as follows;

- a. Petitioner in Crl.M.P.No.152 of 2024 on the file of the Magistrate Court/ Revision Petitioner before this Court/*de facto Complainant* is a retired professor and a resident of Tirupati. She has lodged a written report against Babu Naidu and others, who are arrayed as accused, in the registered Crime No.222 of 2024.
- b. In the Petition filed vide Crl.M.P., it is the plea of the Petitioner that the accused, being her neighbour made illegal construction of a cellar on the western side of the Complainant's house without any plan approval by the Municipal Authorities and without any set back. It is stated that several complaints dated 06.01.2024, 22.01.2024, 29.01.2024, 02.02.2024, 08.04.2024 and 10.04.2024 have been brought to the notice of the police officials right from the Station House Officer to the cadre of the Director General of Police, against the accused, for causing mischief and destruction of her dwelling house, threatening and attempting to kill the Petitioner's daughter, intimidating and outraging the modesty of the Petitioner, conspiring and attempting to destruct the Petitioner's house. It is stated that Petitioner

³ Hereinafter referred to as "IPC"

was made to bind over to acquiesce to the accused illegal and unauthorised construction of cellar in encroached land adjacent to the western compound wall of the Petitioner's house. It is stated that the Accused removed the foundation at the bottom of the compound wall and cracking the compound wall in the guise of digging a further deep pit of about 15 feet in the land abutting the south-west compound wall purportedly for unauthorised cellar construction. It is further stated that basing on the Complaint given by the *De facto* Complainant, finally on 10.04.2024, a case has been registered against Babu Naidu and his henchmen, which is the subject matter of the above crime.

c. It is stated that since the Police deliberately refused to collect crucial time sensitive evidence, which if not interfered with immediately, would result in the criminal proceedings being ceremonial leading to permanent miscarriage of justice, the Petitioner filed an application under Section 156(3) of the Code before the trial Court to monitor the investigation. The said Petition was disposed of, *vide* impugned order dated 25.04.2024.

3. The grounds taken by the Revisionist in the Revision, are as follows;

a. The observation that the Trial Court cannot monitor each and every step of investigation as the investigation is the exclusive domain of the police

in the crimes particularly registered under Section 154 of the Code is contrary to the settled law and bound to cause miscarriage of justice.

b. The view of the Trial Court that the scope of monitoring investigation under Section 156(3) of the Code is meant only in cases of private complaint is contrary to the well settled law.

c. The Trial Court erred in not observing the exceptional omissions and commissions of the police and their deliberate actions to save the accused.

d. The Trial Court turned a blind eye to the deliberate and brazen falsification of Columns 8 and 10 of the FIR in order to diminish the offence registered to save the accused.

e. The Police have failed to collect the time sensitive evidence, which is bound to cause miscarriage of justice, since it could disappear.

f. The impugned order is bereft of any scrutiny of the evasiveness on the part of the Police to collect such evidence.

g. Because of the inaction of the Police, the petitioner is still in threat, which the trial Court failed to recognize. The Accused retaliated on 10.04.2024 for the complaint which was forwarded through the Superintendent of Police on 08.04.2024.

h. The impugned order is contrary to the Judgment of the Hon'ble Apex Court in ***Sakiri Vasu V. State of U.P.***⁴

Arguments Advanced at the Bar

4. Heard Sri Pavan Kumar Namineni, learned counsel for the Petitioner and learned Assistant Public Prosecutor appearing for respondent/State.

5. Perused the material available on record.

6. In the written submissions filed by learned counsel for the Petitioner, it is submitted that the Hon'ble Apex Court in ***Sakiri Vasu*** (case referred supra) has expressly held that a power of learned Magistrate to order further investigation under Section 156(3) of the Code includes, implied and incidental powers to monitor and supervise power of investigation and that it is the only remedy available to a victim, who is aggrieved by the inaction of the Police.

7. It is argued by the learned counsel appearing for the Revision Petitioner that the learned Magistrate has got every authority to check the investigation though the case is registered by the Police under Section 154 of the Code without it being referred under Section 156(3) of the Code. Learned counsel further would submit that the jurisdictional Magistrate as per Section 173(8) of the Code, could scrutinise the investigation done by the Police and

⁴ 2008(2) SCC 409

identify the lapses and direct the Police for further investigation under incidental and implied powers. Learned counsel further submits that the purport of investigation ordered under Section 202 of the Code is to be from the investigation ordered under Section 156(3) of the Code. Learned counsel further submits that in the impugned order, the learned Magistrate simply disposed of the Petition showing that the Investigation is exclusive domain of the Police when a case is registered under Section 154 of the Code and that conclusion is quite contrary to the provisions of law and the Judgment of the Hon'ble Apex Court.

8. Learned counsel finally would submit that when the Police is deliberately avoiding to collect the evidence during the course of investigation to shield the Accused or though not deliberately but in a lethargic way so that the time sensitive evidence may disappear, the jurisdictional Magistrate has every authority to look into such aspects to set the things in a right path by exercising the power under Section 156(3) of the Code. On these grounds, learned counsel would contend that the impugned order is not sustainable under law.

9. *Per contra*, learned Assistant Public Prosecutor would submit that the Police are attending the case with diligent attention. It is stated that the written objections filed by the Police before the Magistrate Court would show that C.C.T.V. footages are not available. Further, the jurisdictional Magistrate has no authority to monitor the investigation by issuing specific

directions for the collection of evidence. Therefore, in the light of these submissions, the learned Assistant Public Prosecutor submits that the Court may pass appropriate orders.

Point for Determination

10. Having heard learned counsel representing both sides, the question that would arise for determination before this Court is:

- I. Whether Learned Magistrate can monitor or look into the grievance of the victim and respond to the inaction of the police in collecting the crucial time bound evidence during the course of investigation, in a case registered by police under Section 154(1) of the Code?
- II. Whether the impugned order passed by the learned magistrate is sustainable under law or warrants any interference of this Court?

Determination by the Court:

11. The grievance of the Petitioner herein is that the Police are not conducting investigation in a proper way and are showing lethargy in collection of evidence which is a time bound i.e., if not collected then and there, it may not be possible to collect at subsequent period of time. The crux of the issue is that the petitioner is aggrieved by the manner of investigation is said to have been conducted against the accused on the complaint of the Petitioner.

12. It is no doubt true that crime investigation is one of the primary duties of police. It is also fundamental trite of law that investigation has to be fair, proper transparent and judicious as it is an important facet of rule of law. Fair and proper investigation is also given the status of a constitutional right as under Article 21 of the Constitution of India. In general circumstances, it is in the exclusive domain of the investigation authority to conduct investigation which includes multi-fold steps. It is a settled principle that a Magistrate cannot overstep the well-defined boundaries carved in the criminal jurisprudence. However, in cases where the grievance is that the investigation is not being conducted in a fair or proper manner, the Magistrate can step in and monitor the investigation, as per catena of decisions. It is necessary to discuss a few of them.

13. **Sakiri Vasu** is a decision wherein the Hon'ble Apex Court had extensively reviewed the scope of powers vested with a Magistrate in view of Section 156 (3). The relevant passages thereunder read thus;

"11. In this connection we would like to state that if a person has a grievance that the police station is not registering his FIR under Section 154 Cr.P.C., then he can approach the Superintendent of Police under Section 154(3) Cr.P.C. by an application in writing. Even if that does not yield any satisfactory result in the sense that either the FIR is still not registered, or that even after registering it no proper investigation is held, it is open to the aggrieved person to file an application under Section 156 (3) Cr.P.C. before the learned Magistrate concerned. If such an application under

Section 156 (3) is filed before the Magistrate, the Magistrate can direct the FIR to be registered and also can direct a proper investigation to be made, in a case where, according to the aggrieved person, no proper investigation was made. The Magistrate can also under the same provision monitor the investigation to ensure a proper investigation.

13. The same view was taken by this Court in **Dilawar Singh vs. State of Delhi JT** 2007 (10) SC 585 (vide para 17). We would further clarify that even if an FIR has been registered and even if the police has made the investigation, or is actually making the investigation, which the aggrieved person feels is not proper, such a person can approach the Magistrate under Section 156(3) Cr.P.C., and if the Magistrate is satisfied he can order a proper investigation and take other suitable steps and pass such order orders as he thinks necessary for ensuring a proper investigation. All these powers a Magistrate enjoys under Section 156(3) Cr.P.C.

15. Section 156(3) provides for a check by the Magistrate on the police performing its duties under Chapter XII Cr.P.C. In cases where the Magistrate finds that the police has not done its duty of investigating the case at all, or has not done it satisfactorily, he can issue a direction to the police to do the investigation properly, and can monitor the same.

17. In our opinion Section 156(3) CrPC is wide enough to include all such powers in a Magistrate which are necessary for ensuring a proper investigation, and it includes the power to order

registration of an FIR and of ordering a proper investigation if the Magistrate is satisfied that a proper investigation has not been done, or is not being done by the police. Section 156(3) CrPC, though briefly worded, in our *opinion*, *is very wide and it will include all such incidental powers as are necessary for ensuring a proper investigation.*"

18. It is well-settled that when a power is given to an authority to do something it includes such incidental or implied powers which would ensure the proper doing of that thing. In other words, when any power is expressly granted by the statute, there is impliedly included in the grant, even without special mention, every power and every control the denial of which would render the grant itself ineffective. Thus where an Act confers jurisdiction it impliedly also grants the power of doing all such acts or employ such means as are essentially necessary to its execution

24. In view of the abovementioned legal position, we are of the view that although Section 156(3) is very briefly worded, there is an implied power in the Magistrate under Section 156(3) Cr.P.C. to order registration of a criminal offence and /or to direct the officer in charge of the concerned police station to hold a proper investigation and take all such necessary steps that may be necessary for ensuring a proper investigation including monitoring the same. Even though these powers have not been expressly mentioned in Section 156(3) Cr.P.C., we are of the opinion that they are implied in the above provision."

(emphasis supplied)

14. In **XYZ v. State Of Madhya Pradesh & Ors.**⁵ the Hon'ble Supreme Court while reiterating the law laid down in **Sakiri Vasu** had observed that the powers conferred to a Magistrate as under Section 156(3) ought to be exercised towards meeting the ends of justice. In **T.C. Thangaraj v. V. Engammal**,⁶ has once again reiterated the position of law as laid down in **Sakiri Vasu** and observed as follows;

"12. It should also be noted that Section 156(3) of the Code of Criminal Procedure provides for a check by the Magistrate on the police performing their duties and where the Magistrate finds that the police have not done their duty or not investigated satisfactorily, he can direct the police to carry out the investigation properly, and can monitor the same. (See **Sakiri Vasu v. State of U.P.**)"

(emphasis supplied)

15. Further, the Hon'ble Apex Court in **Sudhir Bhaskar Rao Tambe v. Hemant Yashwant Dhage and others**⁷ by following its earlier decision in **Sakiri Vasu's** case (supra) held as follows:

"2. This Court has held in **Sakiri Vasu v. State of U.P.**, that 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 done, then the remedy of the aggrieved person is not to go

⁵ [2022] 18 S.C.R. 163

⁶ (2011) 12 SCC 328

⁷ (2016) 6 SCC 277

to the High Court under Article 226 of the Constitution of India, but to approach the Magistrate concerned under Section 156(3) Cr.P.C. If such an application under Section 156(3) CrPC is made and the Magistrate is, *prima facie*, satisfied, he can direct the FIR to be registered, or if it has already been registered, he can direct proper investigation to be done which includes in his discretion, if he deems it necessary, recommending change of the investigating officer, so that a proper investigation is done in the matter. We have said this in *Sakiri Vasu* case because what we have found in this country is that the High Courts have been flooded with writ petitions praying for registration of the first information report or praying for a proper investigation.

3. We are of the opinion that if the High Courts entertain such writ petitions, then they will be flooded with such writ petitions and will not be able to do any other work except dealing with such writ petitions. **Hence, we have held that the complainant must avail of his alternate remedy to approach the Magistrate concerned under Section 156(3) Cr.P.C. and if he does so, the Magistrate will ensure, if *prima facie* he is satisfied, registration of the first information report and also ensure a proper investigation in the matter, and he can also monitor the investigation."**

(emphasis supplied)

17. In **M.Subramaniam And Another v. S.Janaki And Another**,⁸ a three-Judge Bench of the Hon'ble Apex Court affirmed the view taken in **Sakiri Vasu** and **Sudhir Bhaskarrao Tambe**.

⁸ AIR ONLINE 2020 SC 387

18. In **Vinubhai Haribhai Malviya and others vs. State of Gujarat and another**⁹, Hon'ble Supreme Court held as under;

"23. It is thus clear that the Magistrate's power under Section 156(3) of the CrPC is very wide, for it is this judicial authority that must be satisfied that a proper investigation by the police takes place. To ensure that a "proper investigation" takes place in the sense of a fair and just investigation by the police - which such Magistrate is to supervise - Article 21 of the Constitution of India mandates that all powers necessary, which may also be incidental or implied, are available to the Magistrate to ensure a proper investigation which, without doubt, would include the ordering of further investigation after a report is received by him under Section 173(2); and which power would continue to ensure in such Magistrate at all stages of the criminal proceedings until the trial itself commences. Indeed, even textually, the "investigation" referred to in Section 156(1) of the CrPC would, as per the definition of "investigation" under Section 2(h), include all proceedings for collection of evidence conducted by a police officer; which would undoubtedly include proceedings by way of further investigation under Section 173(8) of the CrPC."

(Emphasis supplied)

19. In **Om Prakash Sharma v. State of M.P. and another**,¹⁰ a learned Single Judge of the Madhya Pradesh High Court had provided exhaustive guidelines for the magistrates in the adjudication of applications filed under Section 156 (3) of Cr.P.C. The relevant paragraph reads as follows.

⁹ 2019 SCC OnLine SC 1346

¹⁰ Misc. Criminal Case No. 44485 Of 2020, Madhya Pradesh High Court, dated 25-03-2021

***15.4.....(B) WHEN APPLICATION U/S 156(3) CRPC REVEALS IMPROPER / DELAYED INVESTIGATION ONLY**

(i) In case, application u/S.156(3) relates to grievance of improper or delayed investigation after lodging of FIR, the Magistrate should direct the police to submit report and thereafter pass appropriate remedial directions if the report submitted by Police discloses improper or delayed investigation. The Magistrate after passing such order can also monitor the process of investigation to ensure that it reaches to it's logical & lawful conclusion.

However, while doing so, the Magistrate should avoid stepping into the shoes of investigating authority. The Magistrate ought to assume only supervisory role.

(ii) In case the report requisitioned from Police reveals that investigation is being done with promptitude and in accordance with law, then the application u/S.156(3) should be dismissed by passing a short speaking order."

(emphasis supplied)

20. Except making a reference of the decision in **Sakiri Vasu** referring the power of the Magistrate, no categorical finding to that effect has been given in the impugned order. It is significant to note that the adjudication authority and the Investigating Agency are distinct but inseparable wings of the criminal administration of justice. The detection of a crime is exclusive function of the investigating agency, whereas, adjudication of such matters and deciding a person is guilty or not for the said offence is the authority of the Court.

21. Section 156(1) confers power upon any officer in-charge of a police station to investigate any cognizable case. Section 156(3) provides for a check by the Magistrate on the police performing its duties under Chapter XII, Cr.P.C. In cases where the Magistrate finds that police has not done its duty of investigating in the given case at all or has not done it satisfactorily, he can issue a direction to the police to do the investigation properly and can monitor the same.

22. It is no doubt true that the statute does not confer any power upon the Magistrate to interfere with the day to day investigation or to have control over the investigation of the crime. At the same time, the power of the Police to investigate into any crime is not unlimited. It should be exercised within the limits as prescribed under law and should not result in transgression of settled principles of law. It is also true that the role of jurisdictional Magistrate even in any police case starts from the receipt of the original FIR. Needless to say, the exact time when the FIR reaches the Court has got its own importance. It is not uncommon to see that in a case of grave offence like murder, the enormous delay in reaching of the FIR to the Court would go to the root of the case. It is also important to note that the time of receiving the stipulated documents by the Magistrate would strengthen the integrity and credibility of the Prosecution's case.

23. Thereafter, even during the course of investigation, for police custody, for collection of medical evidence, for collection of signatures, to

summon any person for production of any document, or for Search Warrants, Police may approach the concerned Magistrate Court for its assistance.

24. At the end of the investigation, the final report, vide Section 173 of the Cr.P.C. has to be filed before the concerned Magistrate Court. Sometimes, the final report may show incriminating material collected during the course of investigation against the accused and at times, Police may request the Court for closure of the case, when nothing is found against the Accused. Needless to say, even at such juncture, the Magistrate has ample power either to receive the report as it is and take cognizance of the offence or direct the Police for further investigation on any point, which was left unanswered or accept the report after issuing notice to the *de facto* Complainant to close the case or basing on the sworn statement of the *de facto* Complainant in the protest petition may take cognizance against all the accused.

25. Now the question is as to whether the jurisdictional Magistrate has got any power to interfere in the investigation in a case that is without prior reference from the Court. Here is a case where the Petitioner has approached the Court stating that Police are deliberately not collecting the data i.e., CC footage and are showing lethargy for collection of evidence. Succinctly put, the question is regarding the remedy available in such a situation to protect the interest of the victim. There cannot be any dispute about the fact that a crime is committed not just against an individual, but it is

against the society and it is for the State to take such responsibility to have fight against the accused on behalf of the victim.

26. In the present case, Petitioner being a woman of about 75 years and a retired Professor by profession made a complaint to Police to the effect that to the west side of her house, accused are making unauthorised constructions without any approval from the authorities concerned and without leaving set-backs, causing destruction of her property and when questioned, the accused attacked her and her daughter. In order to establish the allegations made against the accused, Complainant has approached the Police and during the course of investigation informed that there is crucial evidence of CCTV Footage to show the presence of JCB at the scene. It is her grievance that the Police have not responded. There cannot be any second opinion that the investigation is the exclusive domain of the Police. It does not mean that unlimited powers are vested with the Police to collect whatever evidence they feel and ignore the important evidence as per their whims and fancies. It is the duty of the investigating agency to collect the material irrespective of its favouring nature as the Code stipulates for a fair investigation. When there is a dent in that process, the victim has every right to approach the Magistrate Court by way of filing a Petition. The Investigating Agency has filed a counter to the effect that the CCTV footage is not available and that it is the exact grievance of the Petitioner. Irrespective of the nature of the case, whether police or private complaint, the power of Magistrate as under Section 156(3) is available to

monitor and supervise the investigation, when a grievance is made. This is the crux of the decisions referred supra.

27. The victim has a role in the criminal proceedings right from the stage of FIR *vide* the judgment of the Hon'ble Apex Court in **Jagjeeth Singh Vs. Ashish Mishra**¹¹, wherein, at Para Nos.20 and 24 it was held as follows:

"20. It was further recommended that the victim be armed with a right to be represented by an advocate of his/her choice, and if he/she is not in a position to afford the same, to provide an advocate at the State's expense. The victim's right to participate in criminal trial and his/her right to know the status of investigation, and take necessary steps, or to be heard at every crucial stage of the criminal proceedings, including at the time of grant or cancellation of bail, were also duly recognised by the Committee. Repeated judicial intervention, coupled with the recommendations made from time to time as briefly noticed above, prompted the Parliament to bring into force the Code of Criminal Procedure (Amendment) Act, 2008, which not only inserted the definition of a 'victim' under Section 2 (wa) but also statutorily recognised various rights of such victims at different stages of trial.

24. A 'victim' within the meaning of Cr.P.C. cannot be asked to await the commencement of trial for asserting his/her right to participate in the proceedings. He/She has a legally vested right to be heard at every step post the occurrence of an offence. Such a 'victim' has unbridled participatory rights from the stage of investigation till the culmination of the proceedings in an appeal or revision. We may hasten to clarify that 'victim' and 'complainant/informant' are two distinct connotations in criminal jurisprudence. It is not always necessary that the complainant/informant is also a 'victim', for even a stranger to the act of crime can be an 'informant', and similarly, a 'victim' need not be the complainant or informant of a felony."

28. In the instant case, learned Magistrate has opined that the Court cannot monitor each and every step of investigation and had directed

¹¹ (2022) 9 SCC 321

the Investigating Officer to look into the grievance of the Petitioner herein. There is some force in the contention that the Magistrate cannot monitor the investigation step by step in a case which was registered under Section 154 of the Code, but at the same time, Learned Magistrate has every authority to have a look at the investigation in particular, when the victim has approached the Court expressing a grievance. Learned Magistrate ought to have exercised the power vested under Section 156(3) in the given circumstance. If the practice of interfering in the investigation is randomly and regularly encouraged, it may lead to several complications. At the same time, the genuine grievance of the victim cannot be kept unanswered. In that view of the matter, interference of this Court is warranted.

29. This Court makes it clear that no opinion is made touching the merits of the matter. It is for the investigating officer to investigate allegations in accordance with law.

30. At this stage, for better understanding, it is apposite to extract Section 193(3)(ii) of Bharatiya Nagarik Suraksha Sanhita, 2023, which reads as under:

***"193 (3) (ii):** The police officer shall, within a period of ninety days, inform the progress of the investigation by any means including electronic communication to the informant or the victim."*

31. It is not out of place to mention that, in view of the above provision, the informant or the victim is entitled to know the progress of the

investigation and it is a welcoming measure to address the grievance of the informant or the victim in a case, such as the Petitioner in the present case. Though the said provision is not there in the corresponding Section of Cr.P.C., i.e., Section 173 Cr.P.C., that does not bar the informant or the victim to know the progress of the case registered for the offence under Indian Penal Code.

32. In the result, Criminal Revision Case is allowed. The Order dated 25.04.2024 passed in CrI.M.P.No.152 of 2024 by the Learned II Additional Judicial Magistrate of First class-Cum- II Additional Civil Judge, Tirupati in connection with Crime No.222 of 2024 on the file of the East Police Station, Tirupati is hereby set aside. Learned Magistrate is directed to have fresh look over the matter and take appropriate decision according to law.

Miscellaneous petitions pending, if any, shall stand closed.

SD/- K TATA RAO
DEPUTY REGISTRAR

//TRUE COPY//

SECTION OFFICER

One Fair Copy to the Hon'ble Smt. Justice VENKATA JYOTHIRMAI PRATAPA
(For her Lordships Kind Perusal)

To,

1. The II Additional Judicial Magistrate of First Class - cum - II Additional Civil Judge (Junior Division), Tirupati, Chittoor District.
2. The Station House Officer, Tirupati East Police Station, Chittoor District.
3. One CC to Sri. Namineni Pavan Kumar, Advocate [OPUC]
4. Two CC's to The Public Prosecutor, High Court of Andhra Pradesh at Amaravati [OUT]
5. Nine (09) L.R. Copies.
6. The Under Secretary, Union of India, Ministry of Law, Justice and Company Affairs, New Delhi.
7. The Secretary, Andhra Pradesh High Court Advocates' Association Library, High Court Buildings, Amaravathi.
8. Three CD Copies

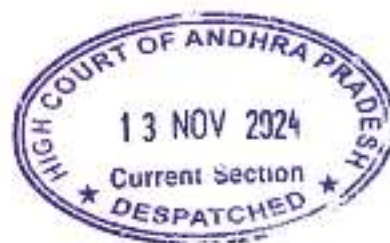
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HIGH COURT

DATED:31/07/2024

ORDER

CRLRC.No.404 of 2024



ALLOWING THIS CRL.R.C