

HIGH COURT FOR THE STATE OF TELANGANA

WRIT PETITION No.35288 of 2022

S. Upender S/o. Venkatesham, Aged:about 47 years, occ:Principal and Correspondent, R/o.H.No.3-14-36/18/16/A, Viveknagar, Ramanthapur, Hyderabad-500 013.

..Petitioner.

and

- \$ 1. The State of Telangana, rep. by its Principal Secretary, Home Department, Secretariat, Secretariat Buildings, Hyderabad.
2. The Director General of Police, Hyderabad, Telangana State.
3. The Commissioner of Police, Hyderabad Commissionerate, Hyderabad.
4. The Assistant Commissioner of Police, Sultanbazar, Hyderabad Commissionerate, Hyderabad.
5. The Station House Officer, Amberpet Police Station.
6. S. Shilpa, W/o.Anand Kumar, Aged: about 37 years occ:Private Employee, R/o.H.No.18-8-278/2/57, New Rakshapuram Colony, Hyderabad.
7. M. Anuradha, D/o. Karun Das Goud, Aged:about 35 years, occ:House Wife, R/o.H.No.29-634, Vinayak Nagar, Neredmet, Malkajgiri, Hyderabad.

... Respondents

DATE OF JUDGMENT PRONOUNCED: 13.09.2022

THE HONOURABLE SMT. JUSTICE LALITHA KANNEGANTI

- | | | |
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| 1. | Whether Reporters of Local newspapers may be allowed to see the Judgments? | Yes/No |
| 2. | Whether the copies of judgment may be marked to Law Reporters/Journals? | Yes/No |
| 3. | Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment? | Yes/No |

LALITHA KANNEGANTI, J

THE HONOURABLE SMT. JUSTICE LALITHA KANNEGANTI**+ WRIT PETITION No.35288 of 2022**

% Dated 13.09.2022

S. Upender S/o. Venkatesham, Aged:about 47 years, occ:Principal and Correspondent, R/o.H.No.3-14-36/18/16/A, Viveknagar, Ramanthapur, Hyderabad-500 013.

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... Respondents

! Counsel for Petitioners : Mr.Rapolu Bhaskar.

^ Counsel for Respondent Nos.1 to 5 :Assistant Government Pleader for Home.

< GIST:

> HEAD NOTE:

? CITATIONS:

-Nil-

THE HONOURABLE SMT JUSTICE LALITHA KANNEGANTI**W.P.No.35288 of 2022****ORDER**

This writ petition is filed with the following prayer;

“to issue an appropriate writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of Respondent No.5 in non-initiating to conduct the inquiry and non-initiating to take the action against Respondent No.6 who created the fake bills and collected lakhs of amount from the parents of the children's in Vidyaranya High School at Amberpet and cheated the petitioner and management of his school and collected the lakhs of rupees and created the fake bills and forged the signatures of the Principal of school and others and became an accused in Crime No.410/2021 for the offences u/s.420, 468, 499, 500 IPC, 156(3) Cr.P.C, is highly illegal, arbitrary, unconstitutional, violation of Principles of Natural Justice and also in violation of Articles 14, 15 and 21 of the Constitution of India and consequently to direct respondent No.5 to conduct the investigation in Crime No.410/2021 on the file P. S. Amberpet and take the necessary actions against Respondent No. 6 who is involved in crime and misutilized the funds of school by creating the fake bills and receipts”.

2. Learned counsel for the petitioner Mr. R. Bhaskar submits that basing on a complaint given by the petitioner, the respondent police have registered a case in Cr.No.410 of 2021 on the file of Amberpet Police Station, Hyderabad, for the offences under Sections 420, 468, 499, 500 IPC and under Section 156(3) Cr.P.C., and thereafter, there is no progress in the investigation and hence, the petitioner has come up before this Court.

3. Learned Assistant Government Pleader for Home, on instructions, submits that basing on the complaint given by the petitioner, the respondent police have registered the aforesaid crime on 26-10-2021 against respondent No.6 and during the course of investigation, they have issued notice under Sections 91/160 Cr.P.C., to the petitioner on 13-06-2022 requesting him to produce the relevant documents, but he did not provide the same and then, the Investigating Officer has issued a notice under Section 91 Cr.P.C., to the accused on 25-06-2022. He further submits that as per the investigation conducted and evidence collected, the dispute is purely civil in nature and there were family disputes between the petitioner and respondent No.6, and after completion of the investigation, the Investigating Officer, after obtaining permission from the Assistant Commissioner of Police, Malakpet Division, has closed the crime as 'lack of evidence'. He further submits that after serving notice to the petitioner/complainant, the respondent police have filed a final report before the IV Additional Chief Metropolitan Magistrate, Nampally at Hyderabad on 08-09-2022.

4. Whenever the writ petitions are filed before this Court stating that there is no progress in the investigation, the respondent police are coming up before this Court with the instructions saying that they have closed the case as 'civil in nature' or 'lack of evidence' on the date of instructions or before date. Then, this Court has directed the Director General of Police to issue guidelines in this regard. The Director

General of Police has issued a Circular Memorandum dated 06-08-2022, which is extracted as under;

"In pursuance of the orders delivered by the Hon'ble High Court for State of Telangana, under reference cited, regarding serving of notices on final reports to the complainant/victim, the following instructions are issued for strict compliance.

1. Upon investigation of a case, if it appears to the officer in charge of the police station/investigation officer that there is no sufficient evidence or reasonable ground of suspicion to justify the filing of a charge sheet, reports are to be referred under the following among other categories by following due procedure, without unnecessary delay.
 - A. Non-Cognizable.
 - B. Mistake of fact.
 - C. Civil nature
 - D. False
 - E. Undetectable
 - F. Evidence not sufficient to charge sheet the case;
 - G. Any other
2. The Investigating Officer of the case, prior to filing of 'Final Report' in the Court has to serve the notice to the complainant/victim under Form-70. The proforma for Notice (Form-70) (Chapter No.28, Order No.481-1 of the Police Manual) is annexed to this circular.
3. The proof of service of notice should be filed before the Court along with the Final Report. A copy of the same should be retained in the CD file for inspection and evidence.
4. A de-facto complainant/victim shall have the right to reasonable, accurate, and timely notice of the completion of investigation leading to "final report". In addition, the information of filing final report may also be entered on the CCTNS platform. The whole purpose is to bring transparency in the system.
5. These instructions shall be followed scrupulously and any deviation will invite departmental proceedings.
6. The SDPO's concerned shall supervise the proper implementation of these instructions and report any non-compliance to the Superior Officers."

As per the said circular, the Investigating Officer of the case, prior to filing of the final report, has to serve notice to the complainant/victim under Form-70. The proof of service of notice should be filed before the Court along with the final report and a copy of the same should be retained in the CD file for inspection and evidence.

5. In this case, after the writ petition is filed, the respondent police having kept quiet from the year 2021, they have come up with the

instructions stating that they have closed the case without even serving notice on the petitioner. It appears that the concerned Station House Officer, i.e., the Inspector of Police, Amberpet Police Station, has wilfully neglected or disobeyed the circular issued by the Director General of Police dated 06-08-2022. Therefore, the Commissioner, Hyderabad, shall look into this matter and take appropriate action against the Officer, who has violated the guidelines issued by the Director General of Police in the said circular. The respondent police shall serve a notice on the petitioner and the petitioner is at liberty to avail the appropriate remedy available under law.

6. Accordingly, the Writ Petition is disposed of. No order as to costs.

7. Miscellaneous petitions, if any pending in this writ petition, shall stand closed.

SMT LALITHA KANNEGANTI, J

13th September, 2022.

sj

L.R.copy to be marked.