

HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

FRIDAY, THE THIRD DAY OF JANUARY
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HON'BLE THE CHIEF JUSTICE ALOK ARADHE
AND
THE HON'BLE SRI JUSTICE J SREENIVAS RAO

WRIT APPEAL NO: 1299 OF 2024

Writ Appeal under clause 15 of the Letters Patent preferred against Order Dated
19/09/2024 in WP.No.2723 of 2021 on the file of the High Court.

Between:

S.Rama Devi, W/o Srinivasulu Aged 47 years, Occ. Proprietor, Satya Durga
Industries, Opp. Womens College, Ramgiri, Nalgonda Town and District R/o.
1-7-CH0008, Chaitanya Nagar, Miryalguda , Nalgonda District.

...APPELLANT/PETITIONER

AND

1. The State of Telangana, Rep. by its Principal Secretary, Home Department,
Secretariat Buildings, Hyderabad.
2. The Circle Inspector of Police, II Town Police Station, Nalgonda.
3. The Deputy Superintendent of Police, Nalgonda.
4. The Superintendent of Police, Nalgonda.
5. The District Collector, Nalgonda District.
6. Vanama Narsimha, S/o Sambaiah, Aged about 65 years, Occ. Business, R/o.
Vanama Narsimha Iron Shop, Opp. Bhaskar Talkies, Nalgonda Town and
District.
7. Vanama Sambasiva Rao @ Sambaiah, S/o.Vanama Narsimha, Aged about
35 years, R/o.Vanama Narsimha Iron Shop, Opp. Bhaskar Talkies, Nalgonda
Town and District.

...RESPONDENTS

IA NO: 1 OF 2024

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
suspend the order passed by Honourable Single Judge in W.P.No.2723 of 2021
dt.19/09/2024 and dispatched 22/10/2024 by considering the petitioner grievance

of hand written and oral complaints has not been registered the FIR by respondents as according to section 154(1) and 154(3) of Cr. PC, pending disposal of the writ appeal.

Counsel for the Appellant: SRI CHIKKUDU PRABHAKAR

Counsel for the Respondent Nos. 1 to 4: SRI MAHESH RAJE, GP FOR HOME

Counsel for the Respondent No.5: GP FOR REVENUE

**Counsel for the Respondent Nos. 6 & 7: SRI L. RAVI CHANDER
SENIOR COUNSEL REP. SRI KRISHNA REDDY PUTTA**

The Court made the following: JUDGMENT

THE HON'BLE THE CHIEF JUSTICE ALOK ARADHE

AND

THE HON'BLE SRI JUSTICE J.SREENIVAS RAO

WRIT APPEAL No.1299 of 2024

JUDGMENT: *(Per the Hon'ble Sri Justice J. Sreenivas Rao)*

This intra court appeal has been filed by the appellant invoking the provisions of Clause 15 of the Letters Patent aggrieved by the order dated 19.09.2024 passed by the learned Single Judge in W.P.No.2723 of 2021, by which the writ petition filed by the appellant was disposed of.

2. Heard Mr. Chikkudu Prabhakar, learned counsel for the appellant, Mr.L.Ravi Chander, learned Senior Counsel representing Mr. Krishna Redddy Putta, learned counsel for respondent Nos.6 and 7 and Mr. Mahesh Raje, learned Government Pleader for Home appearing for respondent Nos.1 to 4.

3. **Brief facts of the case:**

3.1. Facts giving rise to filing of this writ appeal briefly stated are that the appellant is tenant of premises bearing H.No.6-2-1471, situated at Ramagiri, opposite to Women's College, Nalgonda Town

and District and respondent No.6 is the owner and she is running a shop under the name and style of "M/s.Sri Satya Durga Industries". The appellant averred that initially an agreement was entered between the daughter of the appellant, namely Sangishetty Alekya, and respondent No.6 in the year 2015 for a period of 11 months and thereafter as per the mutual understanding between the appellant and respondent No.6, the appellant is continuing as tenant and she has been paying monthly rents regularly including in covid period. In the month of September, 2020, respondent No.6 threatened the appellant to vacate the subject premises. At that stage, the appellant has got issued legal notice dated 30.09.2020. Thereafter, she filed suit in O.S.No.30 of 2021 before the Junior Civil Judge, Nalgonda, for grant of permanent injunction restraining respondent No.6 from forcibly evicting the appellant from the subject premises. Along with the said suit, the appellant filed application for grant of temporary injunction.

3.2. The appellant further averred that when respondent No.7, who is the son of respondent No.6, highhandedly threatened the appellant to vacate the subject premises, the appellant lodged a written complaint on 23.01.2021 before respondent No.2 and also

submitted another complaint to respondent No.4 on 24.01.2021. However, on 30.01.2021, the subject premises was demolished at the instance of respondent No.6 and stolen the mattresses worth of Rs.5 lakhs and the appellant lodged a complaint on the very same day before respondent No.2 for taking appropriate action against respondent Nos.6 and 7. Pursuant to the said complaint dated 30.01.2021, First Information Report (F.I.R.) was registered for the offences under Sections 427 and 439 of the Indian Penal Code, 1860 (hereinafter referred to as 'the IPC'), however, respondent Nos.2 to 4 have not taken any action against respondent Nos.6 and 7.

3.3. The appellant also averred that on 01.02.2021, the Commissioner of Nalgonda Municipality issued notice at the instance of respondent No.6 directing the appellant to vacate the subject premises on the ground that the subject premises is in dangerous condition. Questioning the said notice, the appellant filed writ petition, namely W.P.No.2711 of 2021. On 01.02.2021 the appellant submitted written complaint to respondent No.2 stating that there is danger to the life of the appellant and her family members and requested them to initiate action against

respondent Nos.6 and 7. However, respondent Nos.2 to 4 have not taken any action. Thereafter, on 03.02.2021, the appellant submitted another complaint to respondent No.4. The appellant further averred that in spite of repeated complaints dated 23.01.2021, 24.01.2021, 30.01.2021, 01.02.2021 and 03.02.2021, respondent Nos.2 to 4 have not initiated any action against respondent Nos.6 and 7.

3.4. At that stage, the appellant approached this Court and filed W.P.No.2723 of 2021. Learned Single Judge disposed of the said writ petition observing that basing upon the complaint, F.I.R.No.31 of 2021 was registered and after conducting investigation filed charge sheet for the offences under Sections 427 and 379 of IPC and if there is any lapse on the part of the Investigating Officer, the appellant is required to take necessary steps seeking alteration of charges under the provisions of the Criminal Procedure Code, 1973. Thus, the appellant filed the present writ appeal.

4. Submissions of learned counsel for the appellant:

4.1. Learned counsel for the appellant submitted that basing upon the complaint lodged by the appellant dated 23.01.2021, 24.01.2021, 01.02.2021 and 03.02.2021, respondent Nos.2 to 4

ought to have registered F.I.Rs. and conduct enquiry, however, they have not taken any action. He further submitted that respondent Nos.2 to 4 without conducting proper enquiry filed charge sheet in F.I.R.No.31 of 2021 for only minor offences. He further submitted that the appellant filed application in I.A.No.1 of 2021 in W.P.No.2723 of 2021 to conduct enquiry on the complaint of the appellant dated 08.06.2021 during pendency of the writ petition. Learned Single Judge without properly considering the same dismissed the said application.

4.2. In support of his submission, he relied upon the judgment of the Apex Court in **Lalitha Kumari vs. Government of Uttar Pradesh and others**¹, and contended that respondent Nos.2 to 4 ought to have registered F.I.Rs. basing upon complaints lodged by the appellant against respondent Nos.6 and 7.

5. Submissions of learned counsel for respondent Nos.6 and 7:

5.1. *Per contra*, learned Senior Counsel for respondent Nos.6 and 7 submitted that basing on the complaint dated 30.01.2021 lodged by the appellant, F.I.R.No.31 of 2021 was registered and the

¹ (2014) 2 SCC 1

Investigating Officer after conducting detailed investigation filed charge sheet. The appellant raised very same allegations in all the complaints dated 23.01.2021, 24.01.2021, 01.02.2021 and 03.02.2021.

5.2. He further submitted that in the event respondent Nos.2 to 4 have not registered the complaints and not conducted proper investigation while filing charge sheet in F.I.R.No.31 of 2021, the appellant is having remedy to approach the competent Magistrate Court and also entitled to file private complaint and to take necessary steps in C.C.No.424 of 2021 for not conducting proper investigation while filing charge sheet in F.I.R.No.31 of 2021. Without availing such remedy, the appellant approached this Court and filed writ petition and the same is not maintainable under law. Learned Single Judge rightly disposed of the writ petition holding that the appellant is entitled to take necessary steps seeking alteration of the charges under the provisions of Cr.P.C.

Analysis:

6. Having considered the rival submissions made by the respective parties and after perusal of the material available on

record, it reveals that respondent No.6 is the owner and appellant is tenant of the subject premises. Admittedly, the appellant has filed suit in O.S.No.30 of 2021 before the Junior Civil Judge, Nalgonda against respondent No.6 for grant of perpetual injunction in respect of the subject premises. The record discloses that basing upon the complaint dated 30.01.2021 lodged by the appellant, Crime/F.I.R.No.31 of 2021 was registered by the Assistant Sub-Inspector of Police and after completion of investigation filed charge sheet before the Judicial First Class Magistrate (for Prohibition and Excises Offences), Nalgonda on 12.04.2021 and the same was numbered as C.C.No.424 of 2021 and the said case is pending. The contention of the learned counsel for the appellant that respondent No.4 without properly investigating the case filed charge sheet for only minor offences under Sections 427 and 379 IPC is concerned, the learned Single Judge while disposing of the writ petition rightly held that the appellant is entitled to take necessary steps seeking alteration of the charges as per the provisions of the Cr.P.C.

7. Insofar as other contention raised by learned counsel for the appellant that respondent Nos.2 to 4 have not registered F.I.Rs.

basing on the complaints dated 23.01.2021, 24.01.2021, 01.02.2021 and 03.02.2021 is concerned, the specific claim of respondent Nos.2 to 4 that in all the complaints, the appellant raised similar set of facts and basing upon the complaint dated 30.01.2021, Crime/F.I.R.No.31 of 2021 was already registered and charge sheet was also filed before the competent Magistrate Court and the same is pending.

8. In **Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage²**, the Apex Court held that:

“2. This Court has held in *Sakiri Vasu v. State of U.P.* ((2008) 2 SCC 409), 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 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) Cr.P.C. 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

² (2016) 6 SCC 277

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.

4. In view of the settled position in Sakiri Vasu case, the impugned judgment of the High Court cannot be sustained and is hereby set aside. The Magistrate concerned is directed to ensure proper investigation into the alleged offence under Section 156(3) Cr.P.C. and if he deems it necessary, he can also recommend to the SSP/SP concerned a change of the investigating officer, so that a proper investigation is done. The Magistrate can also monitor the investigation, though he cannot himself investigate (as investigation is the job of the police). Parties may produce any material they wish before the Magistrate concerned. The learned Magistrate shall be uninfluenced by any observation in the impugned order of the High Court."

9. Basing upon the complaints Lodged by the appellant, if respondent Nos.2 to 4 not registered the F.I.Rs., the appellant is having remedy to approach the concerned Magistrate Court to file private complaint. In respect of the other claim of the appellant

that the Investigating Officer has not properly conducted investigation and filed charge sheet in F.I.R.No.31 of 2021 is concerned, the appellant is entitled to agitate her rights by invoking the provisions of Cr.P.C. in C.C.No.424 of 2021 pending before the Judicial First Class Magistrate (for Prohibition and Excise Offences), Nalgonda. The appellant without availing such remedy straightaway approached this Court and filed the writ petition, which is not permissible.

10. For the foregoing reasons, we do not find any ground to differ with the view taken by the learned Single Judge.

11. In the result, the writ appeal fails and is hereby dismissed. There shall be no order as to costs.

Miscellaneous applications pending, if any, shall stand closed.

Sd/- T. KRISHNA KUMAR
DEPUTY REGISTRAR
SECTION OFFICER

//TRUE COPY//

To,

1. One CC to SRI CHIKKUDU PRABHAKAR, Advocate [OPUC]
2. Two CCs to GP for HOME, High Court for the State of Telangana at Hyderabad [OUT]
3. Two CCs to GP for REVENUE High Court for the State of Telangana, at Hyderabad [OUT]
4. One CC to SRI KRISHNA REDDY PUTTA, Advocate [OPUC]
5. Two CD Copies

B M
MP

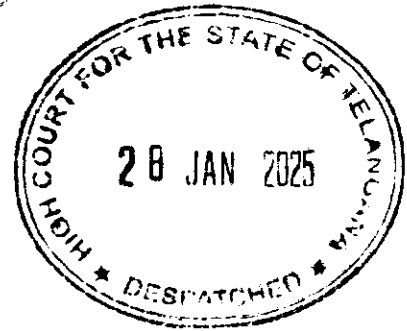


HIGH COURT

DATED:03/01/2025

JUDGMENT

WA.No.1299 of 2024



**DISMISSING THE WRIT APPEAL
WITHOUT COSTS**

9
18/01/25
b.a.