

THE HIGH COURT OF ANDHRA PRADESH: AMARAVATI
HON'BLE Mr. JUSTICE PRASHANT KUMAR MISHRA, CHIEF JUSTICE
&
HON'BLE Mr. JUSTICE D.V.S.S. SOMAYAJULU
SUO MOTU W.P.(PIL) No.69 of 2022

ORDER

Dt.24.11.2022

(Prashant Kumar Mishra, CJ)

This Suo Motu Writ Petition, in the nature of public interest litigation, was registered taking cognizance of Suo Motu Report dated 15.04.2022 of the Principal District Judge, Nellore, SPSR Nellore District, with regard to theft of case property in Cr.No.521 of 2016 of Nellore Rural Police Station in C.C.No.3361 of 2019 on the file of the Court of IV Additional Judicial Magistrate of I Class, Nellore.

2. The above report of the Principal District Judge reveals that the Special Judicial Magistrate of I Class for trial of Prohibition and Excise offences, Nellore, who is also in Full Additional Charge of the Court of IV Additional Judicial Magistrate of I Class, Nellore, made a phone call to the Principal District Judge, informing about the theft of case property in Cr.No.521 of 2016 of Nellore Rural Police Station

in C.C.No.3361 of 2019 on the file of the Court of IV Additional Judicial Magistrate of I Class, Nellore. The Principal District Judge immediately rushed to the said court along with the Chief Judicial Magistrate-cum-Principal Senior Civil Judge, Nellore and noticed that some case property was lying in the side canal situated by the side of the court and some case property was missing. The Principal District Judge directed the Presiding Officer of the court concerned, who had gone to Ongole after taking permission, to return to the headquarters. The subject C.C.No.3361 of 2019 on the file of the Court of IV Additional Judicial Magistrate of I Class, Nellore, relates to the Court of Special Judge for Trial of Criminal Cases Relating to Elected MPs. and MLAs., Vijayawada; however, the subject case property was not transmitted physically to the said court at Vijayawada. As per the Presiding Officer of the Court of IV Additional Judicial Magistrate of I Class, Nellore, the clerk concerned did not intimate about retaining of case property at Nellore without sending it to the court concerned at Vijayawada. The Principal District Judge made efforts to reconstruct the record. The report further reveals that despite Police personnel (3+1) being available to guard the

court premises, they have not guarded the court premises properly on the date and time when the theft of case property had taken place. Accused No.1 in Cr.No.521 of 2016 in C.C.No.3361 of 2019 is Sri Kakani Govardhan Reddy, who is serving as a Minister in the Government of Andhra Pradesh. It is further stated that the Police concerned did not collect footprints and fingerprints on the main door which was broken open by the miscreants and they did not even call dog squad to the scene of crime. Based on the above report, the Principal District opined, prima facie, that truth may come into light only if investigation is handed over to an independent agency.

3. Cr.No.521 of 2016 of Nellore Rural Police Station in C.C.No.3361 of 2019 on the file of the Court of IV Additional Judicial Magistrate of I Class, Nellore, has been registered for the offences under Sections 120-B, 468, 469, 471, 506 of IPC and Sections 54 and 71 of the Information Technology Act, 2000, on the allegation that accused No.1 (respondent No.14 herein) along with others hatched a conspiracy to defame the de facto complainant in public view and as a part of conspiracy, he started making false allegations against the

de facto complainant through print and electronic media. It is further alleged in the complaint that accused No.1 conducted press conference on 23.12.2016 in Nellore and distributed certain documents to the representatives of press alleging that the de facto complainant is holding large extent of land in Malaysia, power project in Thailand and holding millions of dollars in Singapore and Hong Kong bank accounts. It is also alleged in the complaint that accused No.1 has forged the signature of de facto complainant in certain documents with an intention to blackmail the de facto complainant for gain of political survival; accused No.1 fabricated a document as if the de facto complainant had travelled to Malaysia and he also forged the immigration stamp of Malaysian Government, thereby accused No.1 allegedly used the forged documents as originals and aired the news in print and electronic media. The video clippings of the press conference, the documents allegedly created by accused No.1 along with his associates were annexed to the complaint and on the strength of the said complaint, Police registered the said crime.

4. Upon issuance of notice in this Suo Motu W.P. (PIL) and at the time of hearing, learned Advocate General appearing

for the State of Andhra Pradesh, Mr. K. Rathangapani Reddy, learned counsel appearing for respondent No.14-Kakani Govardhan Reddy, Mr.V.S.K. Rama Rao, learned counsel appearing for respondent No.18-Bachalakuri Nageswara Rao, Ms.Alekya, learned counsel representing Mr.N.Harinath, learned Assistant Solicitor General appearing for respondent No.4-Director, CBI, submitted in unison that they have no objection if this court directs enquiry into the matter by the Central Bureau of Investigation. Similarly, Mr.N.Ashwani Kumar, learned counsel appearing for respondents 9 to 13, submitted that this court may pass orders on the basis of materials available on record.

5. One of the accused in the crime is a serving Minister in the Government of Andhra Pradesh. The Hon'ble Supreme Court in ***Ashwini Kumar Upadhyay v. Union of India***, reported in **(2018) 17 SCC 476**, has directed for creation of special courts for trial of offences against M.L.As. and M.Ps. Considering the seriousness and in order to maintain probity in public life by peoples' representatives who are serving the Government in the capacity of Ministers, M.L.As. and M.Ps., the Supreme Court has directed for fast-tracking of such

cases and monitoring by the High Courts. When such importance is accorded to criminal cases against M.L.As. and M.Ps., the court concerned at Nellore as well as the State machinery including the law enforcing agency should have taken due care and caution to secure the case property; otherwise, in the absence of case property being produced and proved in the court, trial against M.L.As. and M.Ps. may fail for lack of evidence. It is for this reason the matter assumes importance. If timely and proper steps are not taken to book the culprits, people at large may lose faith in the judicial process. It is necessary to reach to the root of the incident as to who are involved in theft of case property, wherein influential people are accused.

6. For the foregoing reasons and in view of the fact that all the learned counsel appearing for the parties including the learned Advocate General, have not objected for handing over the subject crime, i.e. Cr.No.112 of 2022 of Chinna Bazar Police Station, SPSR Nellore District, registered for the offences under Sections 457 and 380 of IPC, to the Central Bureau of Investigation, the said crime is accordingly handed over to the Central Bureau of Investigation for conducting

proper investigation and submission of charge sheet, thereafter, at the earliest. The Police concerned is directed to transmit the entire file and case diary of Cr.No.112 of 2022 of Chinna Bazar Police Station, SPSR Nellore District to the Central Bureau of Investigation, which shall cause investigation by a responsible investigating officer and submit charge sheet at the earliest. The Superintendent of Police, SPSR Nellore District, is directed to cooperate and render proper assistance to the investigating officer of the Central Bureau of Investigation as and when needed, in connection with the said crime.

7. The Suo Motu Writ Petition (PIL) is disposed of in the above-stated terms. No order as to costs. Pending miscellaneous applications, if any, shall stand closed.

Sd/-**Sd/-****PRASHANT KUMAR MISHRA, CJ D.V.S.S. SOMAYAJULU, J**

MRR