

(2009) 03 KAR CK 0034

In the Karnataka High Court

Case No : Writ Petition No's. 3478-3482 of 2009

Dilip Deshmukh and Durgesh Dilip Deshmukh

APPELLANT

Vs

The State of Karnataka and Others

RESPONDENT

Date of Decision : 31-03-2009

Acts Referred:

Constitution of India, 1950 — Article 226

Criminal Procedure Code, 1973 (CrPC) — Section 154 (3), 200, 36

Citation : (2010) CriLJ 620 : (2009) ILR (Kar) 2248 : (2009) 6 KarLJ 78 :
(2009) 5 KCCR 3708 : (2010) 6 RCR(Criminal) 1443

Hon'ble Judges : N.K. Patil, J

Bench : Single Bench

Advocate : Tomy Sebastian Associates, for the Appellant; H.T. Narendra Prasad, HCGP, for the Respondent

Judgement

N.K. Patil, J.—The petitioners in these petitions have sought for a direction to the respondents to get the case registered for the offences disclosed In Annexure-D complaint dated 10.12.2008 against the accused persons therein and get the case Investigated by 4th respondent.

2. The grievance of the petitioners as made out by learned Counsel appearing for petitioners in these writ petitions is that, petitioners have, submitted detailed complaint on 10th December 2008 against one Smt Naga Renuka w/o Ashok Kumar and others before the jurisdictional authority and the same was again submitted by way of remainder to the respondents-1 to 3 on 16.12.2008. The said complaint of the petitioners dated 10th December 2008 or dated 16th December 2008 has been neither considered nor any decision has been taken by the jurisdictional Station House officer-5th respondent. Therefore, petitioners were constrained to redress their grievance before this Court, by way of presenting these writ petitions.

3. I have heard learned Counsel appearing for petitioners and learned Government Pleader appearing for respondents.

4. Learned Counsel appearing for petitioners, at the outset submitted that, petitioners have submitted their complaint to the respondents against one Smt. Naga Renuka and others on 10th December 2008. When the same was neither considered nor any decision has been taken by the respondents, petitioners have brought the same to the notice of the respondents through representation dated 16.12.2008. But the same is neither considered nor any decision has been taken by the respondents so far and dragging the petitioners from pillar to post for no fault of them. Further, learned Counsel appearing for petitioners has submitted that, as per the relevant provisions of Cr.P.C. respondents are bound to register the case and initiate appropriate proceedings against the accused as pointed out by the petitioners in their complaint. To substantiate the said submission, learned Counsel appearing for petitioners has placed reliance on the judgment of the Supreme Court in the case of Central Bureau of Investigation v. State of Gujarath reported in 2007 (3) SCC 65 and also on the judgment of this Court in the case of Pushparaj v. Subbanna and Ors. reported in ILR 2001 Kar 4563 and submitted that, in the light of the law laid down by the Apex Court and this Court as stated supra, appropriate direction may be issued to the respondents-2 to 5 to register the complaint submitted by the petitioners and initiate appropriate proceedings. Therefore, learned Counsel appearing for petitioners prayed that the prayer sought for by petitioners in these writ petitions may be granted.

5. Per contra, learned Government Pleader appearing for respondents, vehemently submitted that, the prayer sought for by petitioners is not maintainable, on the ground that, petitioners, in fact, have got speedy, inexpensive, effective and efficacious alternative remedy as provided under Sub-section 3 of Section 154 of Cr.P.C. or u/s 36 or u/s 200 of Cr.P.C and without exhausting the said remedy available to them, petitioners have rushed before this court by presenting these writ petitions. To substantiate his submission, learned Government Pleader appearing for respondents has placed reliance on the judgment of the Apex Court in the case of Sakiri Vasu Vs. State of U.P. and Others, wherein, the Apex Court has held that, when the petitioners have got alternative remedy, they cannot invoke the extra ordinary jurisdiction under Article 226 of the Constitution of India, before this Court. Therefore, he submitted that, the writ petitions filed by petitioners may be dismissed as not maintainable.

6. In the light of the submissions made by learned Counsel appearing for both the parties and after careful perusal of the relief sought for by petitioners and the grounds urged by them in these writ petitions and also the law laid down by the Apex Court in the case of Sakiri Vasu Vs. State of U.P. and Others, , it emerges that, the Apex Court has held in the aforesaid case that, "If a person has a grievance that his FIR has not been registered by the police station his first remedy is to approach the Superintendent of Police u/s 154(3) of Cr.P.C or other police officer referred to in Section 36 of Cr.P.C. If despite approaching the Superintendent of Police or the officer referred to in Section 36, his grievance still persists, then he can approach a Magistrate u/s 156(3) Cr.P.C. instead of rushing

to the High Court by way of a writ petition or a petition u/s 482 Cr.P.C. Moreover, he has a further remedy of filing a criminal complaint u/s 200 Cr.P.C. why then should writ petitions or Section 482 petition be entertained when there are so many alternative remedies."

7. it is crystal clear from the law laid down by the Apex Court in the aforesaid case that, if a person has a grievance that his FIR has not been registered by the police station his first remedy is to approach the Superintendent of Police u/s 154(3) Cr.P.C or other police officer referred to in Section 36 of Cr.P.C. if despite approaching the Superintendent of Police or the officer referred to in Section 36 his grievance still persists, then he can approach a Magistrate u/s 156(3) of Cr.P.C. instead of rushing to the High Court by way of a writ petition or a petition u/s 482 of Cr.P.C. in the instant case, petitioners instead of redressing their grievance before the competent authority, have approached this Court, by way of filing these writ petitions, invoking extra ordinary jurisdiction under Article 226 of the Constitution of India. Therefore, when the petitioners have got alternative remedy, they cannot invoke the extra ordinary jurisdiction to redress their grievance, as rightly pointed out by learned Government Pleader appearing for respondents. After careful perusal of the law laid down by the Apex Court in Sakri Vasu's case, as referred above, I do not find any justification or good grounds or extra ordinary case as such has been made out by the petitioners to entertain the relief sought for by petitioners in these writ petitions. Therefore, interference by this Court is not justifiable. Hence, I decline to entertain these writ petitions.

8. So far as the reliance placed by the learned Counsel appearing for petitioners as referred above is concerned, there is no quarrel or dispute regarding the well settled law laid down by the Apex Court and this Court in the said matters. But the facts and circumstances of the said case is entirely different from the facts and circumstances of this case and the therefore, the same are not applicable to the present case.

9. Having regard to the facts and circumstances of the case as stated above, the instant writ petitions filed by petitioners stand disposed of, reserving liberty to the petitioners to redress their grievance before the appropriate competent authority as provided under the relevant provisions of Cr.P.C. if so advised or if need arises.