
(2002) 01 AP CK 0009
In the Andhra Pradesh High Court
Case No : W.A. No. 4020 of 2001

Katteri Moideen Kutty Haji	Vs	APPELLANT
State of Kerala		RESPONDENT

Date of Decision : 11-01-2002

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 154, 154(1), 156, 157

Citation : (2002) 5 CriminalCC 348

Hon'ble Judges : B.N. Srikrishna, C.J.;K. Thankappan, J

Bench : Division Bench

Advocate : P.K. Vijayan, for the Appellant; C.K. Abdul Rahim, Govt. Pleader, for the Respondent

Final Decision : Allowed

Judgement

B.N. Srikrishna, C.J.—Appeal admitted. Notice made returnable forthwith. Learned Government Pleader waives service on behalf of the respondents. By consent, appeal called out for hearing and heard.

2. The appellant made a complaint in writing dated 4.8.2001 to the Circle Inspector of Police. Thenjipalam alleging that a Tata Benz lorry bearing No. KL 10A 5740 had been stolen by somebody on 25.6.2001 when he was away in Mumbai for business and his wife was admitted for delivery in a hospital. This complaint of the appellant was not even registered by the Police Station concerned. Hence, the appellant moved O.P.No.25152 of 2001 which has been dismissed summarily on the statement of the 4th respondent, Sub-Inspector of Police, Thenjipalam Police Station, that the vehicle had been repossessed by the Financier.

3. Learned Counsel for the appellant contends that, as long as an information lodged before the police station indicates an offence which is cognizable, the police officer concerned has no discretion to refuse cognizance of the offence and register it in the concerned register on the ground that he is satisfied that it is

not a crime. The judgment of the Supreme Court in *State of Haryana and others Vs. Ch. Bhajan Lal and others*, is cited in support. The Supreme Court in paragraph 30 of this judgment observed that at the stage of registration of a crime or a case on the basis of the information disclosing a cognizable offence in compliance with the mandate of Section 154(1) of the Code, the concerned police officer cannot embark upon an enquiry as to whether the information, laid by the informant is reliable and genuine or otherwise and refuse to register a case on the ground that the information is not reliable or credible.. On the other hand, the officer incharge of a police station is statutorily obliged to register a case and then to proceed with the investigation if he has reason to suspect the commission of an offence which he is empowered u/s 156 of the Code to investigate, subject to the proviso to Section 157. In case an officer incharge of a police station refuses to exercise the jurisdiction vested on him and to register a case on the information of a cognizable offence reported and thereby violates the statutory duty cast upon him, the person aggrieved by such refusal can send the substance of the information in writing and by post to the Superintendent of Police concerned, who if satisfied that the information forwarded to him discloses a cognizable offence, should either investigate the case himself or direct an investigation to be made by any police officer subordinate to him in the manner provided by sub-sec.(3) of Section 154 of the Code.

4. A reading of the complaint it. 4.8.2001 leaves no manner of doubt that what is alleged therein discloses information with regard to commission of a cognizable offence. The 4th respondent, therefore, was under a statutory duty u/s 154(I) of the Code of Criminal Procedure to register a case and then proceed with the investigation. What is more interesting is that copies of the complaints were endorsed to the District Superintendent of Police (3rd respondent) and Director General of Police (2nd respondent), neither of whom seems to have done anything in the matter. We are of the view that the 4th respondent was obliged to register a crime and thereafter make enquiries and proceed in accordance with the provisions of the Code of Criminal Procedure.

5. In the result, we set aside the order of the learned Single Judge dated 5th November, 2001 and grant the prayer in the Original Petition in terms of prayer (i).

Writ Appeal is accordingly allowed. No order as to costs.