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**(2009) 08 AP CK 0053**

**In the Andhra Pradesh High Court**

**Case No :** W.V.M.P. No's. 2571 and 2630 of 2009 in W.P.M.P. No. 21305 of 2009  
and Writ Petition No. 16232 of 2009

S.V.S. Cable Network and Others

APPELLANT

Vs

Sri Venkateswara Cable Network and Others

RESPONDENT

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**Date of Decision :** 26-08-2009

**Acts Referred:**

Cable Television Networks (Regulation) Act, 1995 — Section 16, 3, 4  
Copyright Act, 1957 — Section 63  
Criminal Procedure Code, 1973 (CrPC) — Section 154, 154(1), 154(3), 156(3), 200  
Penal Code, 1860 (IPC) — Section 406, 409, 420, 447

**Citation :** (2009) 6 ALD 548 : (2009) 6 ALT 139 : (2009) 3 ALT(Cri) 201 :  
(2010) 1 Crimes 624

**Hon'ble Judges :** Gopala Krishna Tamada, J

**Bench :** Single Bench

**Advocate :** L. Venkateswara Rao, in W.V.M.P., CH. Pushyam Kiran, in W.P. No. 16232 of 2009 and N. Ravi Prasad, in W.P.M.P. No. 21305 of 2009, for the Appellant; L. Venkateswara Rao, for Respondents 6 to 8 in W.P. No. 16232 of 2009 and for Respondent Nos. 5, 6 and 8 in W.P.M.P. No. 21305 of 2009, Ch. Pushyam Kiran, in W.P.M.P. No. 21305 of 2009, N. Ravi Prasad, in W.V.M.P. No. 2571 of 2009 and G.P for Home for Respondent Nos. 2 to 5, for the Respondent

**Final Decision :** Dismissed

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**Judgement**

Gopala Krishna Tamada, J.—This writ petition is filed by the petitioner seeking a writ of mandamus to declare the action of respondents 2 to 4 in not registering, in appropriate sections of law, the complaint lodged by it against respondents 5 to 9, as illegal and arbitrary.

2. The case of the petitioner, in brief, is that it is a proprietary concern and carrying on business in cable network in the name and style of "Sri Venkateswara Cable Network" at Chirala Town, Prakasam District and it is the only multi system operator in Chirala Town. While so, in the year 2008 the 6th respondent flouted a fake cable network in the name and style of "SVS Cable Network" projecting the

5th respondent as proprietor and respondents 7 and 8 as partners, by obtaining a licence from the postal authorities by fraud. Though the 5th respondent is not having multi system operation, it is transmitting the channels. Having come to know about the same, it lodged a complaint with the Station House Officer, I Town P.S., Chirala, Prakasam District - 4th respondent on 02-08-2009 against the respondents 5 to 9 bringing out the offences falling under Sections 447, 406, 409 and 420 IPC and also under Sections 3, 4 and 16 of the Cable Television Networks (Regulation) Act, 1995. However, the 4th respondent intentionally registered the same as a case in crime No. 239 of 2009 only for the offence u/s 63 of the Copy Rights Act, 1957, at the instigation of respondents 5 to 9 through respondents 2 and 3. Aggrieved by the same, it filed the present writ petition.

3. This Court, by an order dated 07-08-2009 in W.P.M.P. No. 21305 of 2009, granted interim stay directing the 4th respondent not to allow the respondents 5 to 9 to transmit illegal signals to the operators.

4. Now, the respondent 5, 6 and 8 filed W.V.M.P. No. 2571 of 2009 and the 7th respondent also filed W.V.M.P. No. 2630 of 2009 seeking to vacate the interim stay granted in W.P.M.P. No. 21305 of 2009.

5. Heard the learned Counsel for the petitioner as well as the learned Counsel for the respondents.

6. Without going into the merits canvassed by the learned Counsel for the respondents, this Court is of the view that this Court cannot pass an order as prayed for in this writ petition.

7. Section 154 of Cr.P.C. deals with cognizable offences and as and when an offence making out a cognizable offence is made out, the police officer concerned shall record the information in a book or register the same as a crime. No doubt, it is true that the petitioner concern approached the police and made a complaint making out a cognizable offence, and in the normal circumstances, the police officer concerned should have registered the same as a crime. But Sub-section (3) of Section 154 Cr.P.C., which is like an exception to Section 154(1) Cr.P.C., is to the effect that if the Station House Officer concerned refuses to register a crime or record the information, the aggrieved person has a right to approach the Superintendent of Police concerned and make a complaint and thereupon, the Superintendent of Police, if satisfied, may send such information to the Station House Officer concerned instructing him to investigate into the matter and act in accordance with Law. As stated supra, the said provision of law is like an exception and any inaction on the part of the Station House Officer concerned can definitely be brought to the notice of the Superintendent of Police as provided for u/s 154(3) Cr.P.C.

8. Further, it is not as though the 4th respondent has not registered any crime. He registered a case in Crime No. 239 of 2009 for the offence punishable u/s 63 of the Copy Rights Act, 1957. According to the petitioner, the acts made in the complaint make out the offences falling under Sections 447, 406, 409 and 420

IPC and also under Sections 3, 4 and 16 of the Cable Television Networks (Regulation) Act, 1995. But, it is not for the petitioner to decide as to what offence is to be registered by the Station House Officer concerned, and similarly, this Court also cannot direct the police officer concerned to register a crime in the manner the petitioner requires or requests. Further, if the Station House Officer concerned fails to register a crime as provided for u/s 154(1) Cr.P.C. and the Superintendent of Police concerned also does not act as provided for u/s 154(3) Cr.P.C, still, it cannot be said that the aggrieved person is remediless.

9. Chapter 15 of Cr.P.C. deals with complaints to Magistrates and according to Section 200 Cr.P.C, as and when a private complaint is filed, the Magistrate may take cognizance thereof. From the said provision of Law, it is clear that if an aggrieved person approaches the competent criminal court and files a complaint, the court will take cognizance thereof and if the court does not take cognizance, it has the powers to refer the matter to the police as provided for u/s 156(3) Cr.P.C. and definitely, the police will act as per the complaint and register a crime. Though the petitioner has so many remedies, which are available under the Criminal Law, without resorting to any one of them, straightaway approached this Court and filed this writ petition, which in my considered view, is not maintainable.

10. Accordingly, this writ petition is dismissed. The petitioner is hereby directed to approach the Superintendent of Police concerned and submit a report before him and the Superintendent of Police shall act in accordance with law.

11. As this writ petition is dismissed, it is needless to observe that the interim stay granted by this Court on 07-08-2009 in W.P.M.P. No. 16232 of 2009 stands vacated, and consequently, W.V.M.P. Nos. 2571 and 2630 of 2009 are allowed.