

K. Mathamma vs The State Of Telangana And 9 Others on 4 October, 2021

Author: K. Lakshman

Bench: K. Lakshman

IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT: HYDERABAD
CORAM:

* THE HON'BLE SRI JUSTICE K. LAKSHMAN

+ WRIT PETITION No.22037 OF 2021

% Delivered on: 04-10-2021

Between:

Smt. K. Mathamma W/o Naveen Kumar Chintapandu .. Petitioner

Vs.

\$ The State of Telangana, rep by its Principal
Secretary for Home, Hyderabad & others .. Respondents

! For Petitioner : Mr. Kalyan Dilip Sunkara

^ For Respondents : Mr. T. Srikanth Reddy
Learned Govt. Pleader for Home

< Gist :

> Head Note :

? Cases Referred :

1. (2014) 8 SCC 273
2. 2018 (4) ALD 180
3. (2018) 4 SCC 579
4. (2020) 5 SCC 378
5. AIR 2021 SC 1381
6. CrI.P. No.3446 of 2021, decided on 14.06.2021

7. (2013) 5 SCC 148
8. (2020) 14 SCC 12
9. (1997) 1 SCC 416
10. C.C. No.1179 of 2019, decided on 24.01.2020
11. (2012) 1 MWN (CrI.) 4

2

KL, J
W.P.No.22037 of 2021

HON'BLE SRI JUSTICE K. LAKSHMAN

WRIT PETITION No.22037 OF 2021

ORDER:

Heard Mr. Kalyan Dilip Sunkara, learned counsel for the petitioner and Mr. T. Srikanth Reddy, learned Government Pleader for Home appearing on behalf of the respondents.

2. This writ petition is filed to declare the action of the respondents in registering multiple FIRs arising out of the same cause of action against the husband of the petitioner as illegal; for a consequential direction to the respondent police to refrain from registering further FIRs against the husband of the petitioner; for treating any existing or future FIRs or complaints made by persons in relation to the actions forming part of the investigation under one FIR as additional witness statements.

3. FACTS:

i) The petitioner herein is the wife of Mr. Naveen Kumar Chintapandu, alias Teen Mar Mallanna, a Free-press Journalist.

ii) The husband of the petitioner is running a You Tube Channel named 'Q' News. As part of his activities, he conducts interviews and discussions with several prominent persons, who express their views on different issues, such as politics, economics and society, and uploads them on You Tube.

iii) A case in Crime No.197 of 2021 was registered by the Chilkaiguda Police Station, Hyderabad against the husband of the petitioner on 22.04.2021 for the offences under Sections - 387 and 504 of ` KL,J the Indian Penal Code, 1860 (for short 'IPC') on the allegation that he had threatened the de facto complainant, an Astrologer (Sri Lakshmikant Sarma) and demanded an amount of Rs.30,00,000/- (Rupees Thirty Lakhs Only), failing which, the husband of the petitioner herein would spread false news about the Astrologer on Social-media Platforms.

iv) A notice under Section - 41A of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') was issued and the husband of the petitioner had complied with the same.

v) The respondent police have registered 35 crimes against the husband of the petitioner in different police stations for offences under various provisions of Law.

4. CONTENTIONS ON BEHALF OF THE PETITIONER:

i) The learned counsel for the petitioner would submit that after a lapse of four (04) months, without there-being any fresh material whatsoever, the Investigating Officer in Crime No.197 of 2021 added Section - 306 read with Section 511 of the IPC to the aforesaid offences.

ii) The police authorities in connivance with political rivals and complainants have registered multiple crimes against the husband of the petitioner based on the same cause of action only to harass him. His implication in criminal cases is only political witch-hunting and arm twisting to stop him from engaging in the free-press.

` KL,J

iii) The husband of the petitioner was arrested on 28.08.2021. IN recent past 8 crimes were registered against the husband of the petitioner, 5 crimes were registered for abusing the Chief Minister of Telangana State and 3 crimes for using derogatory and abusive language against the Inspector of Police, Chilkalguda Police Station with respect to the allegations from very same cause of action.

iv) All 35 crimes were registered against the husband of the petitioner at different police stations of Telangana State for different offences on the complaints lodged by different de facto complainants.

v) Registration of multiple FIRs on the same allegations which arise out of the same cause of action is impermissible. Registration of multiple FIRs violates Articles - 19 (1) (a) and 21 of the Constitution of India. It is also violative of the procedure laid down under the Cr.P.C. and also contrary to the principles laid down by the Hon'ble Supreme Court and this Court in a catena of judgments. It is a vindictive attitude.

vi) With the aforesaid submissions, the learned counsel sought a direction against the respondent police to refrain them from registering further FIRs against the husband of the petitioner.

5. CONTENTIONS ON BEHALF OF RESPONDENTS:

i) Referring to the contents of the counter affidavit sworn-in by respondent No.3 for himself and on behalf of respondent Nos.1 and 2, the learned Government Pleader for Home would contend that as far as the Hyderabad Police Commissionerate is concerned, there are no crimes ` KL,J registered against the petitioner herein.

However, against her husband, eight crimes have been registered. The details of the same were specifically mentioned in the counter. Out of eight crimes, five crimes were registered for using the derogatory language against the Chief Minister and the remaining crimes were registered for using derogatory and abusive language against the Inspector of Police, Chilkalguda Police Station. Out of five crimes registered against the husband of the petitioner for using the derogatory language against the Chief Minister, four crimes were closed after obtaining necessary permission from the concerned Assistant Commissioners of Police as it would amount to double jeopardy, and only one Crime No.1428 of 2021 is under investigation with Cyber Crimes Police Station, Hyderabad.

ii) He would further contend that as far as three crimes registered against the husband of the petitioner for using abusive and derogatory language against the Inspector of Police, Chilkalguda Police Station, Crime No.268 of 2021 of Kachiguda Police Station, was closed on

06.09.2021 and Crime No.283 of 2021 of Chatrinaka Police Station was closed on 10.09.2021 after obtaining necessary permission from the concerned Assistant Commissioners of Police on the ground of mistake of fact / double jeopardy. Now, only one Crime No.274 of 2021 of Gandhi Nagar Police Station is pending and is under investigation.

iii) Out of 34 crimes registered against the husband of the petitioner, only 21 crimes relate to Hyderabad Police Commissionerate and the remaining 13 cases were registered at other Units, which were ` KL,J specifically mentioned in a tabular form annexed to the counter. The said crimes were registered on various dates and on different allegations. Therefore, the allegation of the petitioner that the Police Authorities have registered multiple FIRs against the husband of the petitioner with regard to the very same allegations arising out of the same cause of action is false and contrary to record. The allegations are different, cause of action is different, the complainants and the allegations made therein are different. Thus, the registration of multiple FIRs is permissible.

iv) In the above said crimes, Investigating Officers have been conducting investigation in a fair and transparent manner. If the punishment prescribed for the offences alleged against the husband of the petitioner is seven years and below seven years, the Investigating Officers have already issued notices under section - 41A of the Cr.P.C., strictly following the guidelines issued by the Hon'ble Supreme Court in Arnesh Kumar v. State of Bihar¹. Thus, there is no illegality or irregularity in registering the crimes against the husband of the petitioner.

v) With the said submissions, the learned Government Pleader sought to dismiss the writ petition.

6. ANALYSIS AND FINDING OF THE COURT:

i) The above said rival submissions would reveal that the main grievance of the petitioner herein is that the registration of multiple FIRs with regard to the very same allegations arising out of the very same . (2014) 8 SCC 273 ` KL,J cause of action is

impermissible. The lis involved in the present writ petition is no longer res integra.

ii) A Division Bench of the High Court of Judicature at Hyderabad for the States of Telangana and Andhra Pradesh in *Jakir Hussain Kosangi v. State of Andhra Pradesh*² made a research with regard to maintainability of Second FIR. Referring to the facts and principles laid down in 21 judgments of the Hon'ble Apex Court, right from *Ram Lal Narang v. State* [(1979) 2 SCC 322] to *Yanab Sheikh @ Gagu v. State of West Bengal* [(2013) 6 SCC 428], the principle laid down by the learned Single Judge and facts in *Akbaruddin Owaisi v.*

Government of Andhra Pradesh [2013 (6) ALT 101] it was held that registration of second FIR and investigation of the same is maintainable on certain facts.

iii) Referring to the principle laid down in *Jakir Hussain Kosangi*², *P. Sreekumar v. State of Kerala*³, *Samta Naidu v. State of Madhya Pradesh*⁴ and *Krishna Lal Chawla v. State of U.P.*⁵, this Court in *Jakka Vinod Kumar Reddy v. The State of Telangana*⁶ held that there is no embargo for registration of two FIRs on the following circumstances/grounds:

. 2018 (4) ALD 180 . (2018) 4 SCC 579 . (2020) 5 SCC 378 . AIR 2021 SC 1381 . CrI.P. No.3446 of 2021, decided on 14.06.2021 ` KL,J

(a) where the allegations made in both the FIRs are from different spectrum, where there are different versions from different persons;

(b) same set of facts may constitute different offences;

(c) where there are two distinct offences having different ingredients;

(d) where the allegations are different and distinct;

(e) when there are rival versions in respect of same episode, they would normally take shape of two different FIRs and investigation can be carried out under both of them by the same Investigating Agency.

This Court further held that the Court, which is examining the permissibility of registration of second FIR has to consider whether there is any substance in the allegations and whether there are overlapping features in both the complaints. The Court has to further consider the truth of 'sameness' and that whether the allegations are different and distinct. If the allegations in both the complaints are same between same persons, then registration of second FIR is not maintainable.

iv) In *Surender Kaushik v. State of UP*⁷ the Apex Court held that there cannot be two FIRs against the same person in respect of the same case, but when there are rival versions in respect of the same episode, they would normally take the shape of two different FIRs and . (2013) 5 SCC 148 ` KL,J investigation can be carried out under both of them by the same investigating agency.

v) In *Arnab Ranjan Goswami v. the Union of India*⁸, the Apex Court held that multiple FIRs arising out of same cause of action against Journalist in question is violative of fundamental rights. It further held that no subsequent FIR in respect of same or connected cognizable offence, occurrence or incident as alleged in the first FIR can be registered, unless it is in the form of counter claim / case. As such the subsequent FIR would constitute abuse of statutory power of investigation.

vi) In view of the said principles laid down by the Apex Court and this Court, coming to the facts of the case on hand, as per the contents of the counter affidavit, 35 crimes were registered against the husband of the petitioner, out of which, two crimes were registered in the year 2018, two (2) crimes were registered in the year 2019, thirteen (13) crimes were registered in 2020 and eighteen (18) crimes were registered in the current year. There is no dispute that the husband of the petitioner is a Free- press Journalist and he is running a You Tube Channel in the name and style 'Q' News. According to the petitioner, as a part of being a Free- press Journalist, her husband has been conducting interviews, panel discussions and news items on different issues including political, social and economic etc. It is his freedom of expression guaranteed under Article - 19 (1) (a) of the Constitution of India. The police authorities in . (2020) 14 SCC 12 ` KL,J connivance with political leaders and complainants registered the above said 35 crimes against the husband of the petitioner on the very same allegations arising out of same cause of action which is impermissible.

vii) In view of the above said submission, this Court thought it apt to refer the said 35 crimes registered against the husband of the petitioner herein in a tabular form, which is as under:

S. No.	Crime No.	Name of PS	Offences	Name of complainant	Nature of Allegation
1	1428/21	Cyber Crime, Hyderabad	67 IT Act, 505(2), 505(1) (b), 504, 506 & 189 IPC	Dinesh Chowdary	Abusive and derogatory comments against Hon'ble CM of TS
2	207/21	Nallakunta	504 & 505 IPC	Vattikuti Rao	-do-
3	429/21	Jubilee Hills	504 & 506 IPC	Madasu Raviteja	-do-
4	282/21	Chatrinaka	504 & 505 IPC	P.Radhakrishna	-do-
5	176/21	Mirchowk	504 & 505 IPC	Rashid Shareef	-do-
6	274/21	Gandhinagar	505 (2), 505(1) (c), 189 & 504 & 506 IPC	N Prakash	Threat to Inspector of Police Chilkaiguda PS
7	268/21	Kachiguda	505 (2), 505(1) (c), 189, 504 &	J. Bhargava	-do-

			506 IPC 505(2), 505(1) (C),		
8	283/21	Chatrinaka	189 & 504 N.Laxman IPC	-do-	
9	251/21	Jawharnagar	505(2), 504 DVS & 506 IPC Narayana	Provocation of Bhima public and threat to Hon'ble Labour Minister of TS Threat &	
10	364/21	RGIA Airport	503 IPC Y.Prakash Reddy	defamation of Inspector	N o
11	125/21	Yedpally	386 r/w 34 IPC Jayavardhan Goud	Extortion of money Un from Toddy shop In owner (U	
12	197/21	Cyber Crime	387 & 504 Laxmikanth IPC Sharma	Extortion of money from astrologer Threat to	
13	730/21	Jagathgirigutta	323,341,506 & 120(B) r/w D.Sampath 34 IPC Reddy	complainant in the above case in conspiracy with other people.	
14	553/21	Medipally	186, 353, 506 & 147 r/w S. Srinivas Rao 149 IPC	Obstruction of the duty of public servant	
15	539/21	Medipally	341,353 & 506 r/w 34 B. Shekhar IPC	Obstruction of the duty of public servant	
16	1323/21	Cyber Crime	67 IT Act, 417,506,509 Jamalpur & 354 IPC. Priyanka	Cyber stalking and harassment over social media	
17	573/21	Medipally	506 of IPC Sec.3(1)(r)(s), 3(2), (Va) of Nyatha Ashok SC/ ST Act 417,420,465,	Threat and criminal intimidation in the name of caste. Forgery, cheating	

18	471/21	Chilkaalguda	568 & 471 B Srinivas Rao IPC 504, 505(1)(c),	by producing fake covid-19 certificate Abusive and derogatory	
19	330/20	Jubilee Hills	505(2) & 506 Syed Moin IPC 505 (1) (b), 505 (2), 504 Rowthu Gopi & 506 IPC	comments against the Hon'ble CM of TS. -do-	
20	359/20	Panjagutta			
21	1102/20	Cyber Crime	505(1)(b) & Gellu Srinivas 505(1) (b), 506 & 188	-do-	
22	268/20	Cyber Crime	IPC, 66C IT Act and 54 DMA 505(1) (C), 506 IPC, 54 DMA	G. Pandu Goud Creating panic in people with regard to corona virus.	
23	343/20	Jubilee Hills	Syed Zubair	-do-	
24	1177/20	Cyber Crime	505 (1) (b) &. 188 IPC and B.Ramesh Sec 54 DMA	-do-	
25	190/20	Armoor	153, 153 (A) (c), 504 & Paska Narsaiah 505 (2) IPC	False allegation against Armoor, MLA	PT v CC.9
26	78/20	Nandipet	153,153(a), 504 & 505(2) Mooda Mahender IPC	-do-	Acti
27	149/20	KPHB Colony	504 & 505 B.Ramachandriah	Abusive and derogatory comments against Detective Inspector KPHB forgery and	PT v

KL,J

28	2005/20	Cyber Crime	469, 509 & S. Parshuram 505 (2) IPC		defamation of Ex-M.P. Mrs. K.Kavitha by uploading false images.	Char 16-0 S.R. CC a
29	2304/20	Cyber Crime	505 (1) (b), G. 505 (2) & Mohan 504 IPC		Defamation of Chandra Hon'ble CM of TS by circulation of false news.	U/I U/s. serv
30	612/20	Cyber Crime	504 & 505(2) P.	Narender	Circulation of false news regarding	PT v
31	1096/20	Cyber Crime	67 IT Act, 505(1)(b), Md.	Abdul	Abuse and derogatory	Char 27.0
32	256/19	Huzur Nagar	505(2), 504 Saleem and 506 IPC 341,186 & Dr.Pentaiah		language against Hon'ble CM of TS	SR 6 CC a
33	155/19	Mellacheruvu	188 IPC and 30 of Police Act 341,186 &188 IPC	Venkatiah	Violation of Model Code of Conduct in	PT v 414/
34	80/18	Chikadpally	505(2) IPC	G. Srinvas Charyulu	Hurting Sentiments of Brahmins by airing program on Electronic Media	PT v 2418
35	128/18	Narayankhed	504 & 171(G) IPC	Geeta Reddy	Spreading False news against TRS Candidate in during election time.	U/I CC 3

viii) During the course of arguments, the learned counsel for the petitioner would submit that the respondent police have arrested the husband of the petitioner on 28.08.2021. After securing bail, the police are arresting him again under the guise of execution of PT Warrant in ` KL,J another case, due to which, the husband of the petitioner is not in a position to come out and he would be in judicial custody. Thus, the action of the respondent police is vindictive and it amounts to violation of Articles - 19 (1) (a) and 21 of the Constitution of India apart from being contrary to the procedure laid down under the Cr.P.C.

ix) Article - 19 of the Constitution of India deals with the protection of rights involving freedom of speech, etc. Article - 19 (1) (a) deals with freedom of speech and expression. Article - 21 deals with right to life and personal liberty.

x) The Apex Court in Arnab Ranjan Goswami⁸ had an occasion to deal with the fundamental right enshrined in Article - 19 (1) (a) of the Constitution of India and held in paragraph 38 as follows:

"38. Article 32 of the Constitution constitutes a recognition of the constitutional duty entrusted to this Court to protect the fundamental rights of citizens. The exercise of journalistic freedom lies at the core of speech and expression protected by Article 19(1)(a). The petitioner is a media journalist. The airing of views on television shows which he hosts is in the exercise of his fundamental right to speech and expression under Article 19(1)(a). India's freedoms will rest safe as long as journalists can speak truth to power without being chilled by a threat of reprisal. The exercise of that fundamental right is not absolute and is answerable to the legal regime enacted with reference to the provisions of Article 19(2). But to allow a journalist to be subjected to multiple complaints and to the pursuit of remedies traversing ` KL,J multiple states and jurisdictions when faced with successive FIRs and complaints bearing the same foundation has a stifling effect on the exercise of that freedom. This will effectively destroy the freedom of the citizen to know of the affairs of governance in the nation and the right of the journalist to ensure an informed society. Our decisions hold that the right of a journalist under Article 19(1)(a) is no higher than the right of the citizen to speak and express. But we must as a society never forget that one cannot exist without the other. Free citizens cannot exist when the news media is chained to adhere to one position. Yuval Noah Harari has put it succinctly in his recent book titled "21 Lessons for the 21st Century":

"Questions you cannot answer are usually far better for you than answers you cannot question."

It further held that the balance has to be drawn between the exercise of a fundamental right under Article - 19(1)(a) and the investigation for an offence under the Cr.P.C. All other FIRs in respect of the same incident constitute a clear abuse of process and must be quashed.

xi) The Apex Court referring to its earlier judgments including the judgment in T.T. Antony v. State of Kerala (2001 Cri.L.J. 3329), Upkar Singh v. Vedprakash [(2004) 13 SCC 292] and Bahubhai v. State of Gujarat [(2010) 12 SCC 254] further held that registration of successive FIRs / complaints founded on the same cause of action is impermissible. No other FIR or, as the case may be, complaint shall be initiated or pursued in any other forum in respect of the same cause of ` KL,J action. Any other FIRs or complaints in respect of the same cause of action held to be not maintainable.

xii) As discussed above, respondent No.3 in its counter specifically contended that eight crimes have been registered against the husband of the petitioner for using derogatory language against Chief Minister and out of which five crimes were closed after obtaining necessary permission from the concerned Assistant Commissioners of Police as it would amount to double jeopardy. It is also specifically mentioned that three crimes were registered against him for using abusive language against the Inspector of Police, Chilkalguda Police Station out of which two crimes were closed on

the ground of mistake of fact / double jeopardy, and one is under investigation.

xiii) As discussed above, as on today, the respondent police have registered 35 crimes against the husband of the petitioner out of which, 18 crimes were registered during the 2021, out of which, one crime was registered in the months of March, April and September, 2021 each; three crimes were registered in the month of July, 2021 and 12 crimes were registered in the month of August, 2021, whereas, 13 crimes were registered during 2020. The statement filed by respondent No.3 along with the counter would reveal that in some of the cases, PT warrants are pending against the petitioner's husband. This would reveal that the respondent police are not using the available technology to stop multiple registrations of FIRs, though they have Apps called as TSCOP, Crime, ` KL,J Criminal Track Net Work System (CCTNS) and Intra Net Option (INO). CCTNS is a plan scheme conceived in the light of experience of a non- plan scheme namely - Common Integrated Police Application (CIPA). CCTNS is a Mission Mode Project under the National e-Governance Plan (NeGP) of Govt. of India. CCTNS aims at creating a comprehensive and integrated system for enhancing the efficiency and effectiveness of policing through adopting of principle of e-Governance and creation of a nationwide networking infrastructure for evolution of IT-enabled-state- of-the-art tracking system around 'Investigation of crime and detection of criminals'. The objectives of the Scheme can broadly be listed as (a) Make the Police functioning citizen friendly and more transparent by automating the functioning of Police Stations; (b) improve delivery of citizen-centric services through effective usage of ICT; (c) provide the Investigating Officers of the Civil Police with tools, technology and information to facilitate investigation of crime and detection of criminals

(d) improve Police functioning in various other areas such as Law and Order, Traffic Management etc.; (e) facilitate Interaction and sharing of Information among Police Stations, Districts, State/UT headquarters and other Police Agencies; (f) assist senior Police Officers in better management of Police Force; (g) keep track of the progress of Cases, including in Courts; and (h) reduce manual and redundant Records keeping. The respondent police can use the technology through the said Apps either for closing FIRs or treating the second FIRs if registered on the same incident / allegation out of same cause of action as a statement ` KL,J under Section - 162 of the Cr.P.C. as held in Akbaruddin Owaisi (Supra). It is also relevant to note that there is an App called ICJS (Inter-operable Criminal Justice System) and CIS (Case Information System). The ICJS is a bridge between the CIS and the CCTNS/TSCOP by using the said technology. The respondent police can take steps in accordance with law to avoid registration of multiple crimes and close the same thereafter, as was done in the present case to avoid the blame of vindictive attitude on their part.

xiv) It is relevant to note that column No.13 of every FIR is with regard to 'action taken' which includes registration of crime, taking up investigation, refusal to take up investigation due to a particular reason etc. Therefore, the police can avail the same.

xv) The crimes mentioned in the above tabular form would reveal that most of the crimes registered in the current year relate to almost same allegations i.e., using abusive and derogatory language against the Chief Minister, his son, daughter and other Ministers in the News items posted in the said You Tube Channel. Most of the cases registered in the year 2020 also relate to the same allegations. It is his fundamental right enshrined in Article - 19 (1) (a) of the Constitution of India.

However, the said fundamental right is having its own limitations under Article - 19 (2). The counter along with the statement annexed thereto by respondent No.3 would reveal that the respondent police are not allowing the husband of the petitioner to be released on bail. If he is released on bail ` KL,J in one case, the police are arresting him in other case on the ground of execution of PT Warrant.

xvi) It is relevant to note that in most of the cases except one or two, the punishment prescribed for the offences alleged against the husband of the petitioner is seven years and below seven years. The police have to necessarily follow the procedure laid down under Section - 41A of the Cr.P.C. and the guidelines issued by the Apex Court in Arnesh Kumar¹.

xvii) There is specific allegation against the respondent police that they are not following the arrest principles laid down by the Apex Court in D.K. Basu v. State of West Bengal⁹, wherein the Apex Court laid down certain guidelines for arresting an accused. The police have to follow such guidelines and also the guidelines issued in Arnesh Kumar¹, otherwise it amounts to Contempt of Court. A learned Judge of this Court in a judgment in Ramadugu Omkar Varma v. Ashok Naik¹⁰ convicted a Police Officer for not following the procedure laid down under Section - 41A of the Cr.P.C. and the guidelines issued by the Apex Court in Arnesh Kumar¹ for a period of four (04) weeks.

xviii) The above stated facts would also reveal that the husband of the petitioner is kept in dark. He does not know how many cases are pending against him and how many PT warrants are issued / pending against him. Virtually, the respondent police are not allowing him to be . (1997) 1 SCC 416 . C.C. No.1179 of 2019, decided on 24.01.2020 ` KL,J released on bail. As discussed above, in almost all the cases, punishment prescribed for the offences alleged therein is seven years and below seven years. Therefore, the police have to necessarily follow the procedure laid down under Section - 41A of the Cr.P.C. and the guidelines issued by the Apex Court in Arnesh Kumar¹, otherwise, it amounts to violation of fundamental rights of the husband of the petitioner as guaranteed under Articles - 19 (1) (a) and 21 of the Constitution of India. Therefore, it is the duty of the respondent police to inform the husband of the petitioner about the pendency of crimes registered against him and PT warrant so as to avoid a situation, like in the present case. There is a specific allegation against the respondent police that they are registering several cases against the husband of the petitioner and arresting him in the said cases one after the other in violation of the guidelines issued by the Apex Court in Arnesh Kumar¹ and also the procedure laid down under Section - 41A of the Cr.P.C.

xix) The Telangana State Police is trying to gain the confidence of people of Telangana by using technology, construction of twin-towers, installation of CCTV Cameras etc., in conducting investigation effectively. They have also introduced SHE TEAMS to arrest crime against women. They have been adopting 'friendly police'. It is highly appreciable. But, at the same time, they have to refrain from registration of multiple crimes against an individual, like the one in the present case, which will damage their reputation and it will lead to losing of confidence of the people.

` KL,J xx) In State v. K.N. Nehru¹¹, the Full-Bench of the Madras High Court had elaborately dealt with the procedure to be followed while executing PT warrants. The relevant observations are as

under:

"42. From the above discussions, the following conclusions emerge:-

1). When an accused is involved in more than one case and has been remanded to judicial custody in connection with one case, there is no legal compulsion for the Investigating Officer in the other case to effect a formal arrest of the accused. He has got discretion either to arrest or not to arrest the accused in the latter case. The police officer shall not arrest the accused in a mechanical fashion. He can resort to arrest only if there are grounds and need to arrest.

2). If the Investigating Officer in the latter case decides to arrest the accused, he can go over to the prison where the accused is already in judicial remand in connection with some other case and effect a formal arrest as held in Anupam Kulkarni case. When such a formal arrest is effected in prison, the accused does not come into the physical custody of the police at all, instead, he continues to be in judicial custody in connection with the other case.

Therefore, there is no legal compulsion for the production of the accused before the Magistrate within 24 hours from the said formal arrest.

3). For the production of the accused before the Court after such formal arrest, the police officer shall make an application before the Jurisdictional Magistrate for issuance of P.T.Warrant without delay. If the conditions required in Section 267 of the Code of Criminal Procedure are satisfied, the Magistrate shall issue P.T. Warrant for the production of the accused on or before a specified date . (2012) 1 MWN (Crl.) 4 ` KL,J before the Magistrate. When the accused is so transmitted from prison and produced before the Jurisdictional Magistrate in pursuance of the P.T.Warrant, it will be lawful for the police officer to make a request to the learned Magistrate for authorising the detention of the accused either in police custody or in judicial custody.

4). After considering the said request, the representation of the accused and after perusing the case diary and other relevant materials, the learned Magistrate shall pass appropriate orders under Section 167(1) of the Code of Criminal Procedure.

5). If the police officer decides not to effect formal arrest, it will be lawful for him to straightaway make an application to the Jurisdictional Magistrate for issuance of P.T.Warrant for transmitting the accused from prison before him for the purpose of remand. On such request, if the Magistrate finds that the requirements of Section 267 of the Code of Criminal Procedure are satisfied, he shall issue P.T.Warrant for the production of the accused on or before a specified date.

6). When the accused is so transmitted and produced before the Magistrate in pursuance of the P.T.Warrant from prison, the police officer will be entitled to make a request to the Magistrate for authorising the detention of the accused either in police custody or in judicial custody. On such request, after following the procedure indicated above, the Magistrate shall pass appropriate orders

either remanding the accused either to judicial custody or police custody under Section 167(1) of the Code of Criminal Procedure or dismissing the request after recording the reasons.

7). Before the accused is transmitted and produced before the Court in pursuance of a P.T.Warrant in connection with a latter case, if he has been ordered to be released in connection with the former case, the jail authority shall set ` KL,J him at liberty and return the P.T.Warrant to the Magistrate making necessary endorsement and if only the accused continues to be in judicial custody, in connection with the former case, he can be transmitted in pursuance of P.T.Warrant in connection with the latter case. xxi) In view of the discussion supra, the action of respondent police in registration of multiple crimes with regard to the very same allegation, closing the same on the ground that it amounts to double jeopardy, obtaining PT warrants and execution of the same depriving the right of husband of the petitioner to obtain bail. Bail is a rule and jail is an exception.

7. CONCLUSION:

i) In view of the peculiar facts and circumstances of the case, considering the fact that several cases have been registered against the husband of the petitioner at various police stations of Telangana State, this Court is of the considered view to issue the following directions to the respondent police, more particularly to respondent No.2, the Director General of Police, Telangana State.

(a) Respondent Police are directed to refrain from registration of multiple crimes on the same allegations and they shall consider the truth of sameness;

(b) If there is more than one crime pending against the husband of the petitioner in respect of the very same allegation arising out of the same cause of action, respondent police shall conduct investigation in one crime and treat the other crimes as statements under Section - 162 of the Cr.P.C.;

` KL,J

(c) Respondent No.2 shall personally supervise the investigation in respect of the crimes pending against the husband of the petitioner;

(d) He is directed to furnish the information either to the petitioner or her husband with regard to pendency of cases against him and issuance / pendency of PT warrants against him and also issuance of Bailable/Non-Bailable Warrants within one (01) week from the date of receipt of a copy of this order under proper acknowledgment;

(e) He has to consider the allegations made against the husband of the petitioner in all thirty five (35) crimes pending against him, and if there is any registration of multiple crimes in respect of the same allegations arising out of the same cause of action, he shall give necessary instructions to the concerned Investigating Officers to close such crimes, treat the same as statements under Section - 162 of the Cr.P.C.;

(f) In the above crimes mentioned in the tabular form where the punishment prescribed is seven years and below seven years, the concerned Investigating Officers shall strictly follow the procedure laid down under Section - 41A of the Cr.P.C. and also the guidelines issued by the Apex Court in Arnesh Kumar¹, failing which it amounts to contempt of Court and they are liable for punishment;

(g) Respondent police shall follow the directions issued by the Hon'ble Apex Court in D.K. Bose⁹ while arresting the husband of the petitioner and while executing PT warrant in K.N. Nehru¹¹;

(h) The respondent police are further directed not to resort any vindictive attitude towards the husband of the petitioner. They are further directed not to harass the petitioner and her ` KL,J husband in any manner under the guise of investigation in any of the crimes that are pending against him. However, the petitioner and her husband shall co-operate with the respondent police by submitting necessary information in concluding the investigation in the aforesaid crimes;

(i) Liberty is also granted to the husband of the petitioner to move regular/anticipatory bail applications before the concerned Magistrates and also to file applications to recall NBWs./BW, if any, pending against him on receipt of information from the respondent police;

(j) However, the learned Magistrates concerned, before whom the respondent police produces the husband of the petitioner shall verify the contents of the complaints, allegations made therein and whether offences alleged against him are bailable or non-bailable. Whether the police have followed the procedure laid down under Section - 41A of the Cr.P.C. while deciding the bail applications;

(k) Respondent No.2 shall issue necessary instructions to all the Station House Officers to utilize the latest technology / Apps viz., ICJS (Inter-operable Criminal Justice System), CIS (Case Information System); CCTNS, TSCOP and Intranet etc., while registering the crimes and while conducting investigation against the husband of the petitioner or any other accused in the State of Telangana;

(l) The Investigating Officers shall conduct investigation in a fair and transparent manner;

ii) With the above directions / observations, the present Writ Petition is disposed of;

` KL,J

iii) However, in the circumstances of the case, there shall be no order as to costs.

As a sequel, the miscellaneous petitions, if any, pending in the writ petition shall stand closed.

K. LAKSHMAN, J 4th October, 2021 Note: Furnish C.C. today itself (B/O.)
Mgr