

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 19TH DAY OF SEPTEMBER, 2019

PRESENT

THE HON'BLE MR.ABHAY S. OKA, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE MOHAMMAD NAWAZ

WRIT PETITION NO.30666 OF 2019 (GM-RES)

BETWEEN:

UMAPATHI S.
S/O.LATE M.SUBRAMANYAM
AGED ABOUT 50 YEARS
ADVOCATE
LEX GROUP, NO.40, SNS PLAZA
SHIVANANDA CIRCLE
BENGALURU-560 001

... PETITIONER

(BY SHRI UMAPATHI S., PARTY-IN-PERSON)

AND:

1. THE STATE OF KARNATAKA
REPRESENTED BY
CHIEF SECRETARY
GOVERNMENT OF KARNATAKA
VIDHANA SOUDHA
BENGALURU-560 001
2. THE STATE OF KARNATAKA
REPRESENTED BY
ADDITIONAL CHIEF SECRETARY
HOME DEPARTMENT
GOVERNMENT OF KARNATAKA
VIDHANA SOUDHA
BENGALURU-560 001
3. THE DIRECTOR GENERAL AND
INSPECTOR GENERAL OF POLICE

KARNATAKA STATE
HEAD QUARTERS
NRUPATHUNGA ROAD
BENGALURU-560 001

... RESPONDENTS

(BY SHRI B.V.KRISHNA, AGA)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO DIRECT THE RESPONDENTS TO ISSUE INSTRUCTIONS TO ALL POLICE STATIONS ACROSS THE STATE TO REGISTER FIR COMPULSORILY IRRESPECTIVE OF TERRITORIAL JURISDICTION WHEN COMPLAINTS DISCLOSING COGNIZABLE OFFENCE ARE MADE TO SUCH POLICE STATIONS AND ETC.

THIS PETITION COMING ON FOR ORDERS THIS DAY, **CHIEF JUSTICE** MADE THE FOLLOWING:

ORDER

Heard the petitioner appearing in person and the learned Additional Government Advocate appearing for the respondents. There are two substantive prayers made in this writ petition filed in the nature of a public interest litigation. The prayers read thus:

- "a) *Issue an appropriate writ in the nature of mandamus, an order or direction directing the respondents to issue instructions to all Police stations across the state to register FIR compulsorily irrespective of territorial jurisdiction when complaints disclosing cognizable offence are made to such police Stations.*

b) Issue an appropriate writ in nature of mandamus, an order or direction directing the respondents to reopen "FIR Centre" at Bangalore with all necessary infrastructure and facility."

2. The petitioner is placing reliance on the directions issued by the Government of India, Ministry of Home Affairs to the State Governments and Union Territories and in particular, the advisory dated 6th February 2014 (Annexure-B). In the first paragraph of the advisory dated 6th February 2014 (Annexure-B), the Ministry of Home Affairs of the Government of India has specifically stated that even if an offence has been committed outside the jurisdiction of the Police station, the concerned Police Officer is under an obligation to register "zero" First Information Report (for short 'FIR') and transfer the same to the appropriate Police station in accordance with Code of Criminal Procedure, 1973 (for short 'Cr.P.C.'). The second paragraph reiterates that there is no discretion or option left with the Police to register or not to register FIR once information of a cognizable offence has been provided. It is also observed that non registration of crime leads to dilution of rule of law. The limited exceptions culled out by the Apex Court in the case of

Lalita Kumar Vs. Government of U.P. (WP.(Crl.)No.68/2008 dated 12th November 2013) are also set out in the said advisory. In the sixth paragraph, a direction was issued to the Home Departments of the States and Union Territories to direct the Director General of Police/ Inspector General of Police to issue necessary instructions in the light of the said advisory. In fact, it is further stated that all the Police Officers should be made aware of what is stated in the advisory and the contents should be also incorporated in the training curriculum of the Police personnel.

3. Another advisory was issued to the Chief Secretaries of all the State Governments and Union Territories administration on 12th October 2015 by the Ministry of Home Affairs of the Government of India reiterating the duty of the Police Officers to register FIR on the basis of the receipt of information regarding the commission of cognizable offence. It reiterates that the FIR has to be registered irrespective of the territorial jurisdiction of the police stations.

4. Notwithstanding these clear instructions issued by the Government of India, the statement of objections filed today by

the State Government shows that the written instructions have not been issued by the Director General of Police in terms of what is stated in the advisory dated 6th February 2014 (Annexure-B). On a query made by the Court, the learned Additional Government Advocate states that the oral instructions are being repeatedly issued to the SHOs of all the Police Stations in the Bengaluru city.

5. As it is an obligation on the Police to register FIR even if alleged offence is committed outside the jurisdiction of the Police Station, there is a corresponding right available to the citizens to enforce the said obligation. Therefore, not only that, it is necessary to issue specific directions in writing in terms of the advisory, but the directions should be placed on the public domain, so that, the citizens are aware of such directions issued which would enable them to show the said directions to the Police when they visit Police Station for registration of a complaint.

6. Notwithstanding advisory issued by the Government of India, the State Government has persistently refused to issue direction in terms of the said advisory. Therefore, we

propose to direct the State Government to issue necessary directions.

7. As regards prayer (b) regarding reopening of FIR centres, it is a matter of policy decision for the State Government and therefore, no direction can be issued in that behalf.

8. The directions which may be issued by the State Government must clearly state that-

a) Even if the alleged offence has been committed outside the territorial jurisdiction of the Police Station, FIR shall be still registered and the same shall be transferred to appropriate Police Station;

b) The Police Officers should be clearly informed that the failure to comply with the direction of registration of FIR and a receipt of information about cognizable offence may invite prosecution of the Police Officer under Section 166-A of Indian Penal Code and it may also invite departmental action against them;

9. We, accordingly, direct the State Government to issue instructions/directions to all the Police Stations in the State as

indicated above in terms of the advisory dated 10th May 2013 (Annexure-A) and the advisory dated 6th February 2014 (Annexure-B). Necessary directions shall be issued by the State Government through the Director General of Police to all the Police Stations within a period one month from the date of which copy of this order is provided to the office of the Government Advocate. The directions issued shall be placed on public domain and on the official website of the State Government, so that, the citizens become aware of the same.

10. No relief can be granted in terms of the second prayer as the direction sought therein is purely in the realm of a policy decision.

The petition is disposed of with the above directions.

**Sd/-
CHIEF JUSTICE**

**Sd/-
JUDGE**