



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

D.B. Habeas Corpus Petition No. 212/2020

Urmiladevi W/o Shri Premratan, Aged About 65 Years, Byecaste Soni, R/o Rajaldesar Ward No. 6 Athuna Baas, Tehsil Ratangarh, District Churu (Rajasthan)

----Petitioner

Versus

1. The State, Of Rajasthan.
2. The Superintendent Of Police, Churu (Rajasthan)
3. The Station House Officer, Police Station Rajaldesar, District Churu (Rajasthan)
4. Gordhanlal S/o Shri Punamchand, Byecaste Soni, R/o 27B I-Pocket, Dilshad Garden, Shahdara, Delhi
5. Shantidevi W/o Shri Gordhanlal, Byecaste Soni, R/o 27B I-Pocket, Dilshad Garden, Shahdara, Delhi

----Respondents



For Petitioner(s) : Mr. Gyan Jyoti Gupta, through VC
For Respondent(s) : Mr. Farzand Ali, G.A.-cum-A.A.G.
Mr. Shreyansh Mardia, through VC for R/4 & R/5
Mr. Mahendra Kumar, SI, SHO Rajaldesar, Churu.

**HON'BLE MR. JUSTICE SANDEEP MEHTA
HON'BLE MR. JUSTICE MANOJ KUMAR GARG**

Judgment

30/07/2021

Reportable

The petitioner Urmila Devi has approached this Court by way of this habeas corpus petition alleging *inter alia* that her husband Shri Prem Ratan aged about 72 years went missing on 04.09.2019 and since then, he has been untraceable. She has prayed for a direction to the respondent police authorities to trace out and produce the corpus in this Court. Various allegations have been levelled by the petitioner in the writ petition against her brother-in-law (respondent No.4) and sister-in-law (respondent No.5) that



they are having an evil eye on the property of her husband in Delhi and that they are responsible for the disappearance of Shri Prem Ratan, who might have been murdered.

It is an admitted case that Shri Prem Ratan left his home at Rajaldesar, District Churu on 04.09.2019 at about 10 o' clock in the morning and thereafter, he disappeared. The petitioner's son Shri Gopal Krishan lodged a missing person report (No.04/2019) at the Police Station Rajaldesar on 10.09.2019, wherein, no allegations were made about any foul play in the disappearance of Shri Prem Ratan. For the first time on 22.09.2019, the petitioner forwarded a complaint to the Superintendent of Police, Churu alleging that her brother-in-law and sister-in-law might be responsible for the disappearance of her husband. The petitioner's son Gopal Krishan Soni lodged a complaint against the respondent Gordhanlal for the offences under Sections 420, 467, 468 and 471 IPC in the court of ACJM, Ratangarh on 09.12.2019, alleging that his uncle, the alleged accused, was responsible for forging documents to usurp the property of his father, who might have been murdered, so as to destroy evidence of forgery.

Notice of the habeas corpus petition was issued to the respondents. Shri Farzand Ali, learned GA-cum-AAG, has put in appearance on behalf of the State and police authorities whereas Shri Shreyansh Mardia, Advocate has appeared on behalf of respondents Nos.4 & 5. As per the factual report submitted by learned AAG, police team proceeded to various places where, the missing person could have possibly gone. An information was received that a dead body of an old man resembling Shri Prem Ratan had been found on the railway tracks by the officials of the GRP, Rajgarh/Sadulpur and an inquest report (No.14/2019) had



been registered in relation thereto. The dead body was recovered on 05.09.2019 (i.e., just on the next day after the alleged disappearance of Shri Prem Ratan) and photographs were snapped thereof. However, the petitioner and her son refused to identify the dead body to be that of Shri Prem Ratan. Unfortunately, DNA samples were not preserved for establishing the identity of the body.

Shri Gyan Jyoti Gupta, learned counsel representing the petitioner vehemently and fervently urges that by no stretch of imagination can it be accepted that the man who died by the railway locomotive accident in the jurisdiction of Police Station Sadulpur/Rajgarh on 05.09.2019 would be the husband of the petitioner herein (the alleged corpus) and thus, the habeas corpus petition is required to be continued so as to take it to the logical conclusion.

However, Shri Farzand Ali, learned GA-cum-AAG, with the assistance of the Investigating Officer, insists that if a comparison of the photograph of Shri Prem Ratan, appended with the missing person report lodged by Shri Gopal Krishan Soni is made with the coloured photographs of the dead body taken by the GRP officials, it would become apparent that the man who was run over by the train was none other than Prem Ratan.

Considering the conflicting stances, we have tried to satisfy ourselves about the identity of the corpus by close inspection of the photographs of the dead body. We find that the deceased, whose photographs were taken by the officials of the GRP, Sadulpur was an old aged man with grey hair, a mustache and french beard. As per the photograph which has been annexed with the missing person report dated 10.09.2019, Shri Prem Ratan was



having grey hair, a mustache and french beard. The uncanny resemblance of features between the two sets of photographs, is too striking so as to be overlooked. The colour of mane and facial hair is grey both in the picture annexed with the Missing Person Report and the pictures of the dead body. The shape of mustache and beard is identical in both photographs. The fact that Shri Prem Ratan left his house on 04.09.2019 and that the dead body was recovered from a little distance away on the railway tracks on the very next morning also gives rise to an imminent possibility of the dead body being that of Shri Prem Ratan. Thus, we are duly satisfied that the dead body which was found near the railway tracks of Sadulpur was that of Shri Prem Ratan and none else.

However, the unfortunate situation, wherein the relatives are either unable to confirm the identity or are intentionally avoiding to do so could have been averted if the DNA samples had been preserved from the dead body.

The **Hon'ble Supreme Court** addressed the plight of the kith and kin of the missing person and took cognizance of the same in in the case of ***Horilal vs. Commissioner of Police, Delhi (W.P. (crl.) No.610/1996)*** and the following directions were issued to the police:-

“(1) Publish photographs of the missing persons in the Newspaper, telecast them on Television promptly, and in case not later than one week of the Receipt of the complaint. Photographs of a missing person shall be given wide publicity at all the prominent outlets of the city/town/village concerned that is at the Railway Stations, Inter state bus Stands, airport, regional passport office and through law enforcement personnel at Border checkpoints. This should be done promptly and in any case not later than one week of the receipt of the complaint. But in case of a minor/major girl such photographs shall not be published without the written consent of the parents /guardians.



(2) Make inquiries in the neighborhood, the place of work/study of the missing girl from friends colleagues, acquaintance, relatives etc. immediately. Equally all the clues from the papers and belongings of the missing person should be promptly investigated.

(3) To contact the Principal, Class teacher and Students at the missing persons most recent school /educational institutions. If the missing girl or woman is employed somewhere, then to contact the most recent employer and her colleagues at the place of employment.

(4) Conduct an inquiry into the whereabouts from the extended family of relatives, neighbours, school teachers including school friends of the missing girl or woman.

(5) Make necessary inquiries whether there have been past incidents or reports of violence in the family. There after the investigation officer/agency shall:

(a) Diligently follow up to ensure that the records requested from the parents are obtained and examine them for clues.

(b) Hospitals and Mortuaries to be searched immediately after receiving the complaint

(c) The reward for furnishing clues about missing person should be announced within a month of her disappearance.

(d) Equally Hue and Cry notices shall be given within a month.

(e) The Investigation should be made through women police officers as far as possible.

(f) The concerned police commissioner or the DIG/IG of the State Police would find out the feasibility of establishing a multitask force for locating girl children women.

(g) Further, in the Metropolitan cities such as Delhi, Mumbai, Kolkata and Chennai the Investigating Officer should immediately verify the red light areas and try to find out the minor girls. If any minor girl (may or may not be recently brought there) is found her permission be taken and she may be taken to the childrens home (Sec 34 of the Juvenile Justice (Care and Protection of the Children) Act, 2000, and the I.O. to take appropriate steps that all medical /other facilities are provided to her.

Shri Gyan Jyoti Gupta, learned counsel representing the petitioner has drawn the Court's attention to the judgment of the



Division Bench of Madras High Court in the case of ***Pensiliya vs The Commissioner of Police*** reported in **2014 2 LW (Crl) 628** and urged that similar standard operations/procedure should be adopted in the State of Rajasthan as well.

We feel that the instructions/guidelines laid down by the **Hon'ble High Court of Madras** reproduced hereinbelow for the sake of ready reference should be adopted by the police officials in the State of Rajasthan with the modifications/amendments as may be required:-

"2) It is seen that, during investigations, cases of missing persons, kidnapped, deserters, wanted criminals, escaped criminals, unidentified dead bodies etc., the computerised "Talash" software is not being availed of by the field officers. In order to streamline the process of monitoring and supervision, the following instructions are hereby issued:-

(i) Police Computer Wing (SCRB) will circulate the seven forms (i.e. for Missing, Kidnapped, Deserter, Wanted, Escaped, Unidentified Person, Unidentified Dead body) to District Superintendents of Police and Commission of Police.

(ii) Sufficient forms will be supplied by COPs/SPs to PS.

(iii) Immediately after registering the case, (Missing, Kidnapped, Deserter, Wanted, Escaped, Unidentified Person, Unidentified Dead Body), wireless messages should be sent to DSPs, Police Computer Wing, DCRB and Modus Operandi Bureau by the Investigating Officer.

(iv) The SHOs will prepare "Talash" Forms for all cases reported in 2005 and send them to DSPs, Police Computer Wing, DCRB and Modus Operandi Bureau, if not already sent

(v) The IOs will collect Photos of Missing/Unidentified Dead bodies and send it to DSPs Police Computer Wing, DCRB and Modus Operandi Bureau.

(vi) Police Computer Wing will develop a software to match all the seven categories on different parameters, Photographs should also be included. The Dy. Superintendent of Police, Police Computer Wing will submit a project report on this within two months.



(vii) Manual verification should be done in Police Computer Wing forming a Special Team consisting of one Inspector of Police and three Police Constables.

(viii) The circular vide reference third cited is being sent again to all District Superintendents of Police and Commissioners of Police to reiterate the procedure that should be followed strictly.

(ix) Investigating Officer should be Inspector of Police.

(x) Instructions given in the reference third cited above should be followed strictly for reviewing the progress of the cases.

(xi) Special Cell consisting of one SI, two HCs and two PCs should be formed in the Districts to collect relevant details in all the seven categories.

(xii) Monthly meeting by SP should be conducted with IOs and DSPs to monitor the progress of the case.

(xiii) In all the cases of Missing, Kidnapped, Deserter, Wanted, Escaped, Unidentified Person, Unidentified Dead body and, when traced, message should be flashed to DSPs, Police Computer Wing, DCRB and Modus Operandi Bureau.

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3. Hence all the DSsRP are instructed that, personally monitor each cases, while registered u/s 174 [Cr.P.C](#) the following procedures should be followed:

1. The Photograph of the scene along with the deceased was taken with date.
2. Seizure of any travel tickets in the body of the deceased with details.
3. List out the list of articles like purse, suicide note, photograph/I.D card and name and address available in the body of the deceased.
4. The details of wearing apparels seized with brief descriptions viz., tailor mark dhobi mark etc for easy identification of kith and kin of the deceased.
5. Whether the Finger print of the deceased taken with date and by whom and the date in which sent to FPB for verification.
6. Brief description of the dead body such as height, complexion, built, identification marks, any physical deformity etc.



7. List out the lookout message sent to all the districts DCRBs surrounding Local Police stations and to all the Railway Police Stations with date and acknowledged Police Personnel Name and No.

8. Mention the circulated of hand bills/posters along with photograph of the deceased has been made and the places circulated.

9. List out the arrangements made for the publication in the local and major dailies with date along with the date of publication in each daily. The paper cutting should be available in the CD file.

10. Mention whether arrangements made for broadcasting through the T.V. circuits installed in the railway stations of this State.

11. Mention whether the broad casting through Local Media and the popular channels made with date and the name of the channel.

12. Mention any other efforts taken for giving wide publicity.

13. Whether viscera/femur bone preserved.

14. Date of receipt of Postmortem certificate along with opinion.

15. Date of dispatch of Talash form with photograph, FIR and P.M. Certificate to RCRB and SCRB directly for publication in the CIG.

16. Whether the image of deceased loaded in Tamilnadu Police website with details."

Shri Shreyansh Mardia, Advocate, has drawn our attention to

the **Best Practice Principles and Recommendations issued by the Interpol** in this regard. The Director General of Police shall as far as possible, try to incorporate these principles in the police manual. We may also take note of the observations made by Hon'ble the Supreme Court in the case of **Lokniti Foundation Vs. Union of India & Ors. (Writ Petition(s) Civil No.491/2012)** wherein, Hon'ble the Supreme Court was apprised by learned counsel for the Union of India that the legislation is on



the cards to have DNA profiling done of all unidentified dead bodies and missing persons. The State of Rajasthan would also be well advised to formulate such a legislation in order to avoid the unfortunate situation which has arisen in the case at hand and crop up every now and then. ***In addition thereto, we hereby direct that in all cases of recovery of unidentified dead bodies, the police officials concerned, be it the local police or the railway police officials, immediate efforts shall be made to contact the nearest Medical College/CMHO/ Medical Jurist for the purpose of collecting viscera samples from such bodies so that, the same can be preserved for DNA comparison/analysis as and when required.*** Expecting

prompt action from all quarters, we hereby dispose of this *habeas corpus* petition, observing that the missing person Shri Prem Ratan expired, as a result of being hit by a locomotive on the railway tracks near Sadulpur/Rajgarh. Rule is discharged.

A copy of this order shall be forwarded to the Home Secretary, Government of Rajasthan, Jaipur and the Director General of Police, Rajasthan for compliance.

The file is kept open for receiving the compliance report and shall be listed on 30.09.2021.

(MANOJ KUMAR GARG),J

(SANDEEP MEHTA),J

12-/Sudhir Asopa/Devesh/-