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IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P. (Cr.) No. 139 of 2021

Devanand Oraon

... **Petitioner**

-Versus-

The State of Jharkhand & Others

... **Respondents**

CORAM: HON'BLE MR. JUSTICE SANJAY KUMAR DWIVEDI

For the Petitioner	: Mr. Rajeev Kumar, Advocate
For the Respondent-State	: Mr. Rajiv Ranjan, Advocate General
For the Intervenor	: Mr. R.S. Mazumdar, Sr. Advocate
For the Respondent-C.B.I.	: Mr. Rajiv Sinha, A.S.G.I.

07/13.08.2021. Heard Mr. Rajeev Kumar, learned counsel for the petitioner, Mr. Rajiv Ranjan, learned Advocate General for the respondent-State, Mr. R.S. Mazumdar, learned Senior counsel for the intervenor and Mr. Rajiv Sinha, learned A.S.G.I. for the respondent-CBI.

This criminal writ petition has been heard through Video Conferencing in view of the guidelines of the High Court taking into account the situation arising due to COVID-19 pandemic.

On 17.06.2021, this matter was taken up and the State was directed to file the counter affidavit and the Court also directed to provide security to the parents of late Rupa Tirkey and the matter was fixed for 29.07.2021.

On 29.07.2021, the State sought four weeks' further time for filing the counter affidavit. The Court on that day directed the Director General of Police, Jharkhand, Ranchi and the Superintendent of Police, Sahebganj to produce entire records of UD Case No.09/2021 registered on 03.05.2021 in sealed cover, by the next date of listing and it was open to the State to file counter affidavit as well as response to one I.A., which has been filed for intervention in the matter.

Pursuant to the direction given by this Court vide order dated 29.07.2021, the documents of UD Case No.09/2021 and F.I.R. No.127/2021

was handed over to the Registry of this Court in sealed cover, which has been handed over by the Protocol of this Court to one of the staff of the undersigned and the same was directed to be kept on record vide order dated 09.08.2021.

On 11.08.2021, the learned counsel for the petitioner and the learned Advocate General have almost completed their arguments and the matter was adjourned for two days for further argument by rest of the counsels.

Today when the matter was taken up, at the outset Mr. Rajiv Ranjan, learned Advocate General submits that after end of the proceeding on 11.08.2021, learned counsel for the petitioner was saying that 200% the matter is going to be allowed. He submits that let this matter go out of list of this Court. The other State counsel Mr. Sachin Kumar, learned A.A.G.-II supported the arguments of the learned Advocate General.

When the Court asked the learned Advocate General to file the affidavit to that effect, he submits that he will not file the affidavit and said that what he orally submitted that is sufficient.

Mr. Rajiv Sinha, learned A.S.G.I. appearing for the respondent-CBI very fairly submits that this is not the way to address the Court and what has happened today that directly casts aspersion on the majesty of the Court. This should be stopped. This submission has been supported by Mr. R.S. Mazumdar, learned counsel appearing for the intervenor.

Merely on such submission of the learned Advocate General, the Court is not required to recuse from the case as nothing should come in the way of dispensation of justice or discharge of duty as a Judge and judicial decision-making. Reference in this regard may be made to the judgment

rendered by the Hon'ble Supreme Court in the case of **Indore Development Authority v. Manohar Lal and others**, reported in **(2020) 6 SCC 304**. Paragraph 47 of the said judgment is quoted herein below:

"47. Recusal is not to be forced by any litigant to choose a Bench. It is for the Judge to decide to recuse. The embarrassment of hearing the lengthy arguments for recusal should not be a compelling reason to recuse. The law laid down in various decisions has compelled me not to recuse from the case and to perform the duty irrespective of the consequences, as nothing should come in the way of dispensation of justice or discharge of duty as a Judge and judicial decision-making. There is no room for prejudice or bias. Justice has to be pure, untainted, uninfluenced by any factor, and even decision for recusal cannot be influenced by outside forces. However, if I recuse, it will be a dereliction of duty, injustice to the system, and to other Judges who are or to adorn the Bench(es) in the future. I have taken an informed decision after considering the nitty-gritty of the points at issue, and very importantly, my conscience. In my opinion, I would be committing a grave blunder by recusal in the circumstances, on the grounds prayed for, and posterity will not forgive me down the line for setting a bad precedent. It is only for the interest of the judiciary (which is supreme) and the system (which is nulli secundus) that has compelled me not to recuse."

The Court only with a view to faith that the common man reposes in the judiciary sending this matter before Hon'ble the Chief Justice on administrative side.

In such a situation, this Court thinks it proper to place this matter before Hon'ble the Chief Justice on the administrative side for administrative decision.

Registry of this Court is directed to place this matter before Hon'ble the Chief Justice immediately.

(Sanjay Kumar Dwivedi, J.)