

1 THE HIGH COURT OF MADHYA PRADESH
WP No.20269/2019
Narayan Dhakad vs. State of M.P. & Ors.

Gwalior, Dated : 20/08/2020

Shri Rajnish Sharma, Counsel for the petitioner.

Shri Purshottam Rai, Panel Lawyer for the respondent/State.

Heard through video conferencing.

It is submitted by Shri Rai that yesterday the respondents have filed the status report with provisional I.D. No.28013/2020.

Since the status report has not been uploaded, therefore, on verification, the Office has pointed out that there are certain defects in the status report, therefore, it has not been uploaded. Although certain defects have been pointed out by the Office in the status report, but looking to the urgency, the Office is directed to upload the defected status report immediately. Further the Counsel for the respondents is also directed to rectify the defect.

Looking to the urgency involved in the present case, the counsel for the State was directed to read out the status report which has been filed by the respondents.

It is submitted by Shri Rai that on 27.3.2020 the supplementary statement of the father of the missing corpus/petitioner was recorded who informed that the missing corpus has informed him on mobile phone that she has married one Ashish Pawar and is also carrying the pregnancy of four months. Thereafter the location of the mobile number of the missing corpus was traced and it was found that she is

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residing some where in Vishakhapattanam (Andhra Pradesh). It is further submitted that on 23.6.2020 the investigating officer sought an opinion from the Chief Block Medical Officer, Gohad, District Bhind who by his opinion dated 8.7.2020 informed that since Vishakhapattanam (Andhra Pradesh) is situated at a distance of 1400 Kms. and as the missing corpus is carrying the pregnancy of six months, therefore, it would not be in her interest to undergo the travelling of 1400 Kms. Now, the Investigating Officer sought the permission to go Vishakhapattanam (Andhra Pradesh) along with the police guard including lady constables and now the permission has been granted. It is further submitted that now the police team will be sent to Vishakhapattanam.

When a specific question was put to Shri Rai as to whether the investigating officer has tried to seek assistance from the local police of Vishakhapattanam (Andhra Pradesh) to search out the missing corpus, then it was submitted by the counsel for the State that the investigating officer was of the view that if the assistance of local police is taken, then the local police may inform the missing corpus and the missing corpus may change her address, therefore, the local police of Vishakhapattanam has not been taken into confidence.

This is nothing but a direct allegation against the police of Vishakhapattanam (Andhra Pradesh) which is not acceptable.

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On the contrary, after getting the information about the missing corpus in the month of March, 2020 itself, the police did not do anything and only after three months, they completed the formality by seeking an opinion as to whether the travelling of the missing corpus would be safe or not. It is submitted by Shri Rai that since the country wide lock down was imposed, therefore, the police party could not go to Vishakhapattanam (Andhra Pradesh). **However, he could not point out that the investigations were also stayed by imposing the lock-down.**

It is really unfortunate that when the police was on the road to save the lives of persons from COVID-19 pandemic, but at the same time, the police is trying to take advantage of COVID-19 pandemic by saying that they were unable to move because of the lock-down, this clearly shows the negligence on the part of the police team. The minor girl is missing and they even did not try to find out the location of the minor girl, inspite of getting information from the petitioner about the phone call made by the minor girl. There is nothing on record to suggest that even the movements of the police party or the investigations were also put in abeyance during the countrywide lock-down.

Whether, it is a serious misconduct on the part of the police or not, is to be seen by the senior police officers. However, one thing is

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clear that by taking advantage of COVID-19 pandemic, the police did not do anything in spite of knowing that not only the habeas corpus petition is pending but according to the prosecution itself the minor girl has eloped and as per the mark sheet filed by the petitioner along with the petition it appears that the date of birth of the missing corpus is 8.7.2002. Thus it is clear that she has attained the majority on 7.7.2020 and in the month of March, 2020, the girl was still minor and the police was sitting idle. In fact if the police was of the view that they are not in a position to go to Vishakhapattanam (Andhra Pradesh), then they could have taken the assistance of the local police of Vishakhapattanam (Andhra Pradesh) for tracing out the missing corpus for securing her presence.

This Court by order dated 24.12.2019 had observed as under:

Accordingly, Superintendent of Police, district Bhind, is directed to personally ensure that the said respondent No.6 is arrested and file report on the next date of hearing duly supported by affidavit of S.P. Bhind.

(Emphasis supplied)

Thereafter, on 10.2.2020 and 17.2.2020 Shri Parmal Singh Mehra, SDOP Gohad, District Bhind had also appeared before this Court. Thus it is clear that the Superintendent of Police, Bhind was directed to personally ensure that the respondent No.6 is arrested in

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spite of that it appears that neither the Superintendent of Police, Bhind nor the SDOP, Gohad, Bhind have taken any interest in the matter.

Accordingly, the Director General of Police, State of M.P. is directed to look into the misconduct of the Superintendent of Police, Bhind, SDOP, Gohad, District Bhind as well as the Investigating Officer and to take necessary action against them for not securing the presence of the minor girl as well as not arresting the respondent No.6 as directed by this Court by order dated 24.12.2019.

The Director General of Police, State of M.P. is also directed to file an affidavit as to whether all the investigations during the lock down period were kept in abeyance and whether no investigation in the entire State of Madhya Pradesh was done in any matter and whether no person in connection with any offence was arrested, and whether the ground taken by the police officers that because of imposition of lock down, they could not go to Vishakhapatnam (Andhra Pradesh) is a correct stand or not? Even after getting the information about the location of a minor girl in the month of March, 2020 whether not making any effort to trace out the missing girl is a serious misconduct or not and whether such an act of a police officer amounts to criminal offence or not?. He is also directed to file an affidavit as to whether inaction on the part of the police in not taking

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the assistance of the local police of Vishakhapattanam (Andhra Pradesh) on the ground that the Investigating Officer had an apprehension that in case if the local police is taken in confidence, then they may inform the missing corpus or the respondent No.6 can be accepted or not and whether such statement made by the State Counsel appears to be a wild and serious allegation of corruption against the Vishakhapatnam Police or Not as such a statement appears to have been made without there being any basis for the same.

It appears that all the time, the police was merely making formalities for searching out the missing corpus as well as the respondent No.6. The father of the missing corpus/petitioner had also informed the police about the phone call made by the missing corpus and the location of the said mobile phone was also verified by the police but still thereafter they did not do anything for the last more than five months on the pretext that they were afraid of COVID-19 pandemic.

The Director General of Police, State of M.P. is directed to look into the question as to whether whether such conduct of the Superintendent of Police, Bhind, SDOP, Gohad, District Bhind as well as the Investigating Officer or any other police officer connected with the investigation amount to serious misconduct or not.

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At this stage, it is submitted by Shri Purshottam Rai that now the police will immediately go to Vishakhapattanam (Andhra Pradesh) to trace out the missing corpus and they would get her statement recorded under Section 164 of Cr.P.C. and looking to her physical condition, if it is not possible to bring her back to Bhind/Gwalior, then they will get her secured by making a prayer to the competent authority for sending her to Nari Niketan or any other permissible institution. It is also submitted that now the police would also arrest the respondent no.6 because the missing corpus was minor on the date of incident, and as per the marksheet, She has attained majority only on 7-7-2020.

In this case, since the Superintendent of Police, Bhind has already lost the confidence of this Court, therefore, the Inspector General of Police, Chambal Division, Morena is directed to take over the investigation and to personally supervise the investigation and do the needful within a period of five days from today. The police party must be dispatched today itself.

The Inspector General of Police, Chambal Division, Morena is directed to file the status report under his own affidavit and from today onwards no status report below the rank of Officer of Inspector General of Police shall be filed in this case.

List this case on **26.8.2020** for the production of the missing

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corpus.

Let a copy of the order be given to Shri Purshottam Rai, Panel Lawyer for the State for communicating the same to the Director General of Police, State of Madhya Pradesh and to Inspector General of Police, Chambal Range, Morena for necessary information and compliance.

(G.S. Ahluwalia)
Judge

(alok)