

IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P. (Cr.) No. 127 of 2020

Shankar Paswan.....

Petitioner(s)

Versus

1. The State of Jharkhand
2. The Superintendent of Police, Giridih
3. O/C Dhanwar P.S, Giridih.....

Respondent(s)

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Coram: Hon'ble Mr. Justice Ananda Sen

Through:-Video Conferencing

For the Petitioner

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: Mr. Arwind Kumar, Advocate

For the State

: Mr. Rajiv Ranjan, Advocate General

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3/08.10.2020 The lawyers have no objection with regard to the proceeding, which has been held through video conferencing today at 11.00 A.M. They have no complaint in respect to the audio and video clarity and quality.

Learned counsel for the petitioners prays to ignore the defects and take up the matter on merits.

Learned counsel for the petitioner undertakes to deposit the deficit court fee within two weeks from today. Rest of the defects stand ignored for the present.

Heard the parties.

“Hathrass” is not only in the State of Uttar Pradesh, but also is in the State of Jharkhand.

A shocking incident has been brought to the notice of this court which prompted this Court to make the aforesaid comments.

A 15 year old girl has been brutally murdered by burning. The extract of the post-mortem report, which finds place in the case diary at paragraph 25, suggests that the burn injury is hundred percent and the whole body was charred.

This is a writ application under article 226 of the Constitution of India, filed by the petitioner for the following prayer: –

1. To take appropriate legal action against the named accused persons of first information report of Dhanwar P.S. Case number 63/2020, who are roaming free and indulged in giving continuous threat and torture to the petitioner for not to pursue the case.

And/or

2. To remove the lock from the house of petitioner (informant) that has been closed illegally on pretext of investigation for last four months.

Facts of this case

A first information report was lodged by one Shankar Paswan S/o Munshi Paswan on 31/3/2020, under section 302/376/511/201/34 of the Indian Penal Code with Dhanwar police station which was

numbered as Dhanwar P. S. Case 63/2020. In the FIR, he has stated that on 30/3/2020 at 8 PM, Pintu Paswan by sprinkling kerosene oil on the body of his 15 years old daughter, burnt her and thereafter, by removing the tiles of the roof of his house tried to flee but the family members of the informant caught hold of him. The family members of Pintu Paswan then arrived and started quarrelling with the informant. They thereafter, forcibly took Pintu Paswan along with them. In the meantime, it was found that the room was locked from inside and his daughter was badly burnt. It is stated that the slippers and a cap of Pintu Paswan was lying in the floor. The informant concluded that said Pintu Paswan has murdered his 15 year old daughter by burning her.

On the aforesaid information, the first information report was lodged on 31/3/2020.

This case was listed yesterday before this court. This court adjourned the matter for today with a direction to the State Counsel to produce the case diary. This court also directed the Superintendent of Police, Giridih to remain present virtually through video conferencing at the time of hearing.

Today the case diary has been produced and placed before me. The Superintendent of Police, Giridih and learned Advocate General is also present.

The counsel appearing on behalf of the petitioner submits that the police is not investigating the allegations levelled in the first information report properly. He submits that the accused persons, who are named in the FIR, are roaming freely in the village, being emboldened by the inaction of the police. He submits that no step has been taken by the police to arrest the named accused persons and the accused persons are putting pressure on the informant not to pursue the case and passively the police is helping them. He submitted that even after lapse of four months the investigation has not been completed and no steps have been taken against the named accused persons.

The Superintendent of Police, Giridih submits that they are taking appropriate action and are investigating the case. He submit that they are also looking into the angle as to whether the case is of honour killing or not. He submits that some directions have been given by the supervising authority which is yet to be complied with fully. He submits that appropriate action will be taken and the investigation will be completed in a proper manner.

I have heard the parties and have gone through the petition and the case diary. The fact of the case has already been noted above. It is an

admitted case that a girl of 15 years has been brutally burnt to death. The burn injury is 100%. The offence is very heinous in nature. I have gone through the case diary, which suggests that as to how the investigation proceeded, that to in a very casual manner. The first information report was registered on 31/3/2020. The police visited the place of occurrence and prepared the inquest report on that date. The police found that the girl aged about 15 years was fully burnt. On the same day the restatement of the informant was recorded and statements of few other witnesses were also recorded by the Investigating Officer. Those persons fully supported the fact as narrated in the first information report. Paragraph-9 is the description of the place of occurrence. The I.O. found smell of Kerosene Oil and also smell of burnt clothes, skin and hair. The I.O. also found that the door was locked from inside and the tiles of roof were also removed. The Investigating Officer seized two materials: – one black cap and one pair of slippers. As per the FIR, the said two materials belong to the main accused Pintu Paswan. The case diary was closed for that day. The next date of investigation, which finds place in the case diary, is 4th April 2020, i.e. after four days when the I.O. only records the statement of two seizure list witnesses. The next date in the case diary is 22nd April 2020, i.e. after more than 16 days. Nothing was done by the I.O. in between. On that day the I.O. only procured the post-mortem report. It is worthwhile to mention here that Doctor opined that the vaginal swab should be sent to FSL, Ranchi for examination. The next date of activity of the Investigating Officer is 5th May 2020, which is more than 14 days. On that day he obtains permission from the court to send the swab to the FSL. On next day, i.e. 6th May 2020, the I.O. obtains a letter from the hospital to send the swab to the laboratory. Surprisingly rather shockingly the swab was sent to the laboratory only on 20th May 2020 i.e. after 14 days. In the entire case diary there is no explanation about the delay caused. This is how an investigation is going on of a most heinous crime.

I also find that some supervision was made and some points were raised in relation to call details reports etc. I also find that in the month of August the I.O. recorded statement of some further witnesses who are independent and supported the case of the prosecution. Some witnesses were also examined who happens to be the relative of the accused, who gave a different story. Surprisingly enough I don't find anything to suggest that the police have ever made an attempt to arrest the named accused persons.

As mentioned earlier, the Superintendent of Police, Giridih and the State counsel have tried to bring up a theory that this can be a case of

honour killing. This court is not going into all these aspects. The fact remains that a young girl of 15 years was brutally burnt to death, be it by the accused named in the FIR or anyone else. Even if the theory of the State is accepted that this can be a case of honour killing then also the same is more heinous. This heinous incident needs immediate and proper investigation to bring to light the correct fact and to book the real accused persons. The way the investigation proceeded is absolutely unsatisfactory. No seriousness is shown by the Investigating Officer nor even by the supervising authority in this case. The urgency is absolutely lacking. This court cannot keep its eyes shut and ignore this type of lackluster and shoddy investigation. Seriousness and urgency ought to have been shown by the investigating authorities. They have miserably failed as there is no substantial progress in the investigation even after lapse of six months.

Since from the case diary I find that the investigation has not been done in a proper manner and no urgency or seriousness is shown by the present investigator, I think this is a fit case where a **SPECIAL INVESTIGATING TEAM (SIT)** be constituted. I therefore direct the Director General of Police, Jharkhand, to immediately constitute a SIT to investigate case being Dhanwar P.S. Case No. 63 of 2020.

It is made clear that while constituting the SIT, the Director General of Police, Jharkhand will appoint responsible and senior persons. I also direct the Director General of Police to monitor the investigation from time to time and ensure completion of investigation at the earliest without any delay.

The Director General of Police is free to take appropriate action against the present investigating team for the delay and laches which has occurred till date in investigation of this case.

So far as the prayer made by the petitioner in this writ application is concerned, in view of constitution of the SIT, the second prayer of the petitioner cannot be allowed.

So far as the first prayer is concerned, it will be open to the SIT to immediately arrest the accused persons and it will be the duty of the SIT to see that none of the witnesses are tampered by anyone.

With the aforementioned observation and direction, this writ application stands disposed of.

Let a copy of this order be immediately communicated to the Director General of Police, Jharkhand, the Chief Secretary and the Home Secretary, State of Jharkhand, through FAX.

(Ananda Sen, J)