

IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P. (Cr.) No. 183 of 2020

Chandrika Yadav @ Chandrika Mahto..... **Petitioner(s)**
Versus
1. The State of Jharkhand
2. Superintendent of Police, Giridih
3. O/C Dhanwar Police Station, Giridih..... **Opp. Party(s)**

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Coram: Hon'ble Mr. Justice Ananda Sen
Through:-Video Conferencing

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For the Petitioner : Mr. Shree Niwas Roy, Advocate
(On behalf of Mr. Arwind Kumar, Adv.)
For the State : Mr. P.A.S. Pati, SC-IV
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5/12.10.2020 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.

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

3. Defects stand ignored for the present.

4. Heard learned counsel for the parties.

5. In this writ application, the petitioner has prayed to take appropriate legal action against the named accused persons of Dhanwar P.S. Case No. 148 of 2020, on the ground that no action has been taken against them and they are roaming free and they are also giving continuous threat to the petitioner not to pursue this case. He has also prayed that a direction be given to initiate a departmental action against the Investigating Officer and other police officials, who have acted to defeat the purpose of law in helping the accused persons.

6. Dhanwar P.S. Case No. 148 of 2020 was instituted upon a first information report lodged by this petitioner. The FIR was lodged under Sections 302, 120B & 34 of the Indian Penal Code. This is a case where the daughter of this petitioner alongwith her three minor children died of severe burn injuries. In the FIR, the informant has stated that the daughter of the informant was married to six years ago. On 08.06.2020, Rajendra Yadav informed him through telephone that some dispute arose between the husband and the wife and the informant has to come to the house of the Rajendra Yadav in the morning or else his daughter will not be found alive. Since, it was in the late evening, the informant could not take any step. On the next day, i.e. 09.06.2020, in the morning, the informant, received information that his daughter alongwith her three minor children is burnt and are undergoing treatment at Referral

Hospital, Rajdhanwar. The informant/petitioner reached the hospital where Doctor and the Nurses of the Hospital were also present and lady police personnel was also present. He stated in the FIR that in their presence his daughter told him that her husband Rajendra Kumar Yadav and five other named persons have burn her and her children. It is the case of the informant that all the named accused persons have committed murder of his daughter and her three children by burning them.

7. As the petitioner, who is the informant claimed that the police is not investigating the occurrence properly and the Investigating Officer and the police officials are helping the accused, he had no other option but to approach this Court.

8. Counsel for the petitioner argued that the Investigating Officer of the case had not made any effort to record the statements of the witnesses nor he made any attempt to arrest the accused persons. He submits that the accused persons are roaming around and are threatening the informant. He submits that the police is taking all efforts to sabotage the investigation and are also taking all efforts to help the accused persons so that they can escape from law.

9. From the argument of the petitioner and the statements, which have made in the petition, I find that serious allegation has been levelled against the Investigating Officer and the police officials. The allegation of sabotaging an investigation and helping accused persons is a very serious allegation. The police, who are investigating a heinous offence, like the one, which is in hand, has to act professionally with utmost sense of responsibility while investigating the offence. There is no room for any laches or laxity while investigating a heinous crime against women and children, nor any laches can be tolerated. The margin of error is zero. In a case where a lady alongwith her three minor children dies because of extensive burn injuries and the allegation is against in-laws, of burning her alongwith her minor children, the investigation cannot be done in a slip shot manner for the purpose of completing formality.

10. Since the allegation, which is leveled against the police personnel, is very serious in nature, to see how the investigation proceeded, this Court called for the case diary of Dhanwar P.S. Case No. 148 of 2020, registered for the offence punishable under Sections 302, 120B/34 of the Indian Penal Code. The case diary was produced before this Court on 09.10.2020. On that day, the matter was adjourned for today so that the court can go through the entire case diary.

11. I have gone through the case diary. This Court is shocked to see

the manner in which the investigation of this sensitive and heinous crime has proceeded. Not only the investigation but also the supervision has not been done professionally or seriously. The Investigating Officer has recorded the statement of some of the witnesses, who supported the prosecution case that the deceased and her three minor children were severely burnt to death. Two minor children died at the place of occurrence whereas the lady and one minor child died in the hospital. In the FIR there is a statement that in presence of the Doctor and the Nurses, the lady (daughter of the informant) has stated that her in-laws has burnt her, alongwith her three minor children. To my utter surprise, I do not find any statement of the Doctor or the Nurses in the case diary. The fact whether there was any doctor or nurse present has also not been mentioned in the case diary. Investigation is silent on this point. Neither there is anything on the record to suggest that no statement was given by the daughter of the informant before any Doctor or Nurse. No investigation has been done on this aspect.

12. I find that on 03.09.2020, the Investigating Officer has submitted charge sheet against the husband of the deceased under Section 302, 120B & 34 of the Indian Penal Code, keeping the investigation pending for others. The main case diary came to an end on that day. Thereafter, a supplementary case diary has been open. In the supplementary case diary at Para-6, the Investigating Officer writes down the note of the Supervising Officer. In sub-para-3 of the supervision note, the Supervising Authority writes down that during course of investigation it came to light that the deceased had some relationship with one Gopal Yadav, S/o Late Kartik Mahto and the deceased used to remain in contact with him and this fact came to the knowledge of the in-laws of the deceased as a result of which differences arose between them. It has been further mentioned that because of this the in-laws of the deceased contacted the informant and wanted to talk on this issue and they intended to convene a Panchayati but in the meantime, this unfortunate incident has occurred. This theory or the fact which the Supervising Officer has noted down, is not backed by any material. In the entire case diary, which has been produced before this Court, I found no statement of any of the witnesses, who has stated the aforesaid fact. This Court failed to understand as to how and from where the Supervising Officer gathered this fact.

13. During course of hearing, the Superintendent of Police, Giridih was directed to remain present through video conferencing. He submits after getting information from the Supervising Authority that the

Supervising Authority had himself gone to the place of occurrence and made some inquiry and had taken statements of some persons and then he could come to know about the aforesaid fact. This submission is also shocking. When the Investigating Officer is investigating the case and has recorded the statement, it is not clear as to why and how the Supervising Authority is conducting a parallel investigation. When an specific question has been put by this Court to the Superintendent of Police, Giridih that if at all the Supervising Authority has done an inquiry and recorded the statement of some of the witnesses, who are those witnesses and where are the statements of those witnesses, no positive answer could be given by the Superintendent of Police to this Court. He says that there is nothing on record. This prima-facie suggests that the role of the Supervising Authority in this case is doubtful.

14. Further from the said note of the Supervising Authority I find that he for the first time, has stated that during treatment of the deceased in the Referral Hospital and on the way to the hospital, the deceased had given some statement, which was video recorded. He further noted down that those video recording are self-contradictory. Surprisingly enough there is no whisper of video recording in the entire case diary, which has been produced before this Court, which is up to 16.09.2020. The Superintendent of Police, Giridih also admitted that there is no gist/transcript of video recording of the dying declaration of the deceased in the case diary. He tries to justify that on 20.09.2020 there is one statement of some police officials, who stated that the statement was given by the deceased, which was video recorded.

15. Be it noted that the deceased died on 09.06.2020. That means if there is any video recording of her statement that has to be dated 09.06.2020. It is surprising as to why transcription of the video recorded dying declaration do not find place in the entire case diary. Even the gist of what has been said has not been mentioned in the entire case diary. Is the Investigating Officer or the Supervising Authority trying to hide something?

16. Further, I find that without there being any material, the Supervising Authority propounded a new theory that this incident can be a case of suicide also. What is the basis of propounding the said theory by the Supervising Authority is also unknown. The case diary suggests nothing which can give rise to the aforesaid suspicion.

17. The aforesaid points raise a serious doubt about the manner the investigation has proceeded and supervised in this case. The manner, in

which the Supervising Authority has dealt this case, is deprecated. Prima-facie, this Court feels that neither the Investigating Officer nor the Supervising Authority has performed their duties, rather a doubt has crept in the mind about the manner in they have handled this case. If this be the style of the investigation, the prosecution cannot succeed finally during trial.

18. This Court takes judicial notice of the fact that on 08.10.2020 in W.P. (Cr.) No. 127 of 2020, this Court in an investigation, which had also arisen out of an occurrence in the District of Giridih, had deprecated the manner in which the investigation and supervision was been done. Today, in this case, when I put a question to the Superintendent of Police, Giridih, whether the Supervising Authority is the same officer, he, after going through the records, submitted that the Supervising Authority of that particular case, which was dealt with by this Court in W.P. (Cr.) No. 127 of 2020, is the same. In that case also there was an allegation that the Authorities were helping the accused persons. Thus, I find that in two successive cases prima-facie the conduct of the same Supervising Authority, who is SDPO, Khori Mahua, has come under the cloud, which needs investigation by the higher authority.

19. Seeing the aforesaid position of investigation, this Court directed the Director General of Police, Jharkhand to appear virtually in this case. The Director General of Police, Jharkhand appeared. He was apprised with the aforesaid fact and the laches committed by the Investigating Officer and the Supervising Authority. The Director General of Police, Jharkhand, after assessing the entire matter and considering the way the Supervising Authority and the Investigating Officer proceeded in this case, submitted before this Court that he will hand over the investigation of this case to the CID. He has also submitted that he will set up an inquiry against the Investigating Officer and the Supervising Authority, and in the mean time he will take steps so that those police personnel will not be in a position to interfere or participate in investigation.

20. Considering the fair submission of the Director General of Police and the material, which has surfaced in this case, I direct the Director General of Police, to immediately transfer the investigation of this case to CID. It is further directed that he should set up an independent inquiry on the role of the Investigating Officer and the Supervising Authority and proceed accordingly, if there are materials to proceed against them.

21. It is made clear that steps should be taken by the Director General of Police, Jharkhand to ensure that the Supervising Authority or

the Investigating Officer no way remain connected with this investigation and further if possible till the investigation is concluded against them, they should not be entrusted with any investigation or supervision of any criminal investigation.

22. With the aforesaid observations and directions, this writ application stands disposed of.

23. Let a copy of this order be communicated to the Chief Secretary, Home Secretary, Director General of Police, State of Jharkhand as well as the Superintendent of Police, Giridih immediately through FAX.

(Ananda Sen, J)