

IN THE HIGH COURT OF ORISSA AT CUTTACK**W.P.(C) No.33492 of 2011*****Smt. Bishnupriya Pattnaik and another* *Petitioners******-versus-******State of Orissa and others* *Opposite Parties*****Appeared in this case:*****For Petitioners* : Mr. P. K. Rath-1, Advocate*****For Opposite Parties* : Mr. J. Katikia,
Additional Government Advocate****CORAM:
THE CHIEF JUSTICE
JUSTICE R. K. PATTANAİK****JUDGMENT
19.04.2022****Dr. S. Muralidhar, CJ.**

1. The parents (Petitioners) of a 38 year-old man, Susanta Pattnaik, who died while in jail custody at the Kendrapara Sub-Jail, filed this petition way back in 2011 claiming compensation for his death on the allegation that it was an unnatural custodial death as a result of the ill-treatment of the undertrial prisoner.

2. The present petition, although filed on 27th December 2011, came up for hearing for the first time only on 10th March, 2015 when a learned Single Judge of this Court directed the Opposite Parties to file their counter affidavit.

3. According to the Petitioners, their son, late Susanta Pattnaik married on 30th January, 2005. As a result of the differences that arose between him and his wife, she left the matrimonial home on 5th October, 2005 to live with her parents. On 14th July 2007, P.S. Case No.259 of 2007 was registered at the Kendrapara Police Station (PS) against Susanta Pattnaik and his parents i.e. the Petitioners herein as well as two of his sisters for the offences under Section 498A IPC read with Section 34 IPC and Section 4 of the Dowry Prohibition Act. It is stated that in the said case, the present Petitioners along with the deceased Susanta Pattnaik and two of his sisters were arrested by the Inspector In-charge Kendrapara from their residence at Burla on 15th July, 2007 and were forwarded to the Court of Sub-Divisional Judicial Magistrate (SDJM), Kendrapara on the next day. On 25th July 2007, the mother i.e. Petitioner No.1 and the daughters were released on bail. The father was released on bail on 30th July, 2007. However, the bail application of late Susanta Pattnaik was rejected and he was remanded to jail custody.

4. On 31st July 2007, BLAPL No.447 of 2007 under Section 439 CrPC. was filed before the Additional District and Sessions Judge, Kendrapara and listed for hearing on 7th August, 2007. Thereafter, it was adjourned to 17th August, 2007.

5. It is stated that the elder brother of late Susanta Pattnaik received a telephonic call on 13th August, 2007 at around 9.15 PM that Susanta Pattnaik had died. The Post-Mortem (PM) of the deceased was conducted on 14th August, 2007. The Petitioners

state that they submitted a representation on 12th October, 2007 to the Collector, Kendrapara and on 8th November, 2007 to the State Human Rights Commission (SHRC) for conducting an enquiry and taking action against the jail officials for being responsible for the custodial death of their son. It is alleged that he was deliberately tortured while in jail custody at the instance of the complainant and her relatives, one of whom was a public prosecutor. One other allegation of the Petitioners is that Susanta Pattnaik was diabetic, and because of lack of adequate medical treatment at the appropriate time, his health condition deteriorated; due to the negligence of the jail officials his death resulted.

6. The SHRC had by an order dated 14th August, 2007 acting on a news item that appeared in the daily "Dharitri" took *Suo Motu* cognizance and asked the IG of Prisons to submit its report. Pursuant thereto, the IG submitted a report along with medical documents. This report indicated that the late Susanta Pattnaik was suffering from diabetes congenitally as were both his parents. He was treated in the jail hospital on 17th July 2007 and 9th & 10th August, 2007 with medicines and insulin. On 13th August 2007, at around 12.30 PM, he complained of pain in his backbone and was shifted to the District Headquarters Hospital, Kendrapara at 1.15 PM as per the advice of the Jail Medical Officer. He was admitted there as an indoor patient at 1.45 PM. The treatment was continued and medicines were administered, but he died at 7.30 PM while undergoing treatment.

7. In terms of the PM examination, the cause of death was opined as being due to cardiac failure because of coronary artery disease consistent with the advanced diabetic medical conditions for which the late Susanta Pattnaik was getting treatment.

8. The Superintendent of Police, Kendrapara submitted a report on 22nd May, 2009 to the SHRC saying that the matter had been entrusted to the IIC Kendrapara PS. The complaint of the elder brother of the deceased was registered in Kendrapara PS as Case No.312 of 2007 under Section 302 IPC read with Section 120B/34 IPC. The final report that was submitted after completion of the investigation was that it was a "mistake of fact".

9. Having examined all the above documents, the SHRC concluded that there were no materials to show that there was any foul play in the death of Susanta Pattnaik. By an order dated 3rd August, 2009 the SHRC closed the case.

10. In reply to the present petition, the Opposite Parties have placed a record of medical treatment of late Susanta Pattnaik including the Inquest Report and the PM Report. The proceedings of the SHRC have also been placed on record. Having carefully examined all these documents, the Court is unable to come to a conclusion different from that reached by the SHRC. Further, although the counter affidavit was filed way back on 23rd November 2015, there has been no rejoinder filed thereto by the Petitioners till date. There is no material on the basis of which this Court can come to a conclusion that the death of late Susanta

Pattnaik was either due to any ill-treatment by the jail officials or due to negligence of the jail officials in not affording any timely medical treatment for his condition.

11. Consequently, the Court is not persuaded to grant the reliefs prayed for in the petition. It is accordingly dismissed.

(S. Muralidhar)
Chief Justice

(R. K. Pattanaik)
Judge

M. Panda.

