

Party Name : SMT. RATNA DEBNATH Vs THE STATE OF TRIPURA & ORS

THE HONBLE MR JUSTICE U. B. SAHA THE HONBLE MR. JUSTICE S.TALAPATRA

Heard Mr. Bhowmik, learned senior counsel assisted by Mr. Sarkar, learned counsel for the petitioner as well as Mr. Ghosh, learned PP for the State.

Mr. Bhowmik, learned senior counsel has expressed serious annoyance for the way the police has treated the complaint of the petitioner. He has urged for investigation by the Central Bureau of Investigation (CBI).

It would be appropriate to refer to the order dated 18.02.2015 passed in this case directing the Investigating Officer to furnish the status report as to what action the police has taken having received the complaint from the petitioner as regards the death of her husband in the mysterious circumstances. In compliance to that order, the Investigating Officer has submitted a status report wherein the following observation has been made by the Investigating Officer:

"A written complaint was filed by one N/Sub Surendra Sing Negi, Post Commander of Madhan Joy Para E/5th T.S.R. and the said complaint was registered as Raishyabari P.S. U.D. Case No. 02/2014 dated 9.9.2014 under Section 174 of Cr.P.C. on 9.9.2014. The complaint was received in the P.S. at 10755 hours to the effect that on 9.9.2014 from 0200 hours after completion of his rear sentry duty R.Fn, Kamal Chandra Debnath took his bed around 0500 hours. Suddenly jawans of the camp heard the sound of firing towards east of the camp. After that camp In-Charge fell in Roll Call and found Rfn, Kamal Chandra Debnath was not available in the barrack. Thereafter, they conducted thorough search of the area and found dead body of the Rfn, Kamal Chandra Debnath is lying on the village road in between Madhanjoy Para and Jarul Cherra with bullet shot injuries on his left chest. They also found his SLR is also lying near his leg."

According to the status report, he examined some TSR Jawans of Madhanjoy Para Camp. Two live cartridges were recovered from nearby the dead body with scratch marks. During further enquiry, as he has stated in his status report, it revealed from previous history that a specific case had been registered at PR Bari PS vide No. 54/2014 on 12.6.2014 under Section 3 of the Indian Pass-port (Entry into India) 2000 against the deceased when he was detained by the BGB, Bangladesh and handed over to BSF after arranging flag meeting. The said case has ended in a charge sheet.

The Investigating Officer has further stated in the status report that the post mortem report has been examined and from the said report he has been found as under:

"that entry was over the left side of the chest 10 cm away radially from nipple. Bullet pieces through the heart downwards backwards and remains under the skin of left luttoac. Fracture of his bone (left side) occur by the bullet. Bullet was one in number. No exit wound. Bullet is handed over the police authority. No other external injury is present and distance of firing was close, cause of dead due to fire arms injury to vital organs of the body leading to shock and death. Collected TFSL, Ballistics examination."

Despite that, the Officer-in-Charge did not register a specific criminal case. We are seriously disturbed by the action of the Officer-in-Charge. When there is a clear indication of a cognizable offence, as revealed from the statement of the TSR Jawans, why the Officer-in-Charge of Raishya Bari PS has not registered the same as a police case is shrouded by serious mystery and this Court cannot sit over such an incident as a passive onlooker.

Before we pass any order on the grievances enumerated in this petition, the Director General of Police, Tripura is directed to take appropriate action against the Officer-in-Charge/Investigating Officer who would be found responsible for not registering a police case even after adequate revelation of a cognizable offence. Steps toward such action shall be initiated within a month from today.

Mr. Ghosh shall communicate a copy of this order to the Director General of Police, Tripura and for this purpose a copy of this order be served to Mr. Ghosh in the course of the day.

Mr. Ghosh has also submitted a copy of the written instruction dated 07.03.2015 which he received from the Assistant Inspector General of Police (Crime) wherefrom it is found that it has been decided to transfer the case to the Criminal Investigation Department (CID) for further investigation. This Court does not have any difficulty if the case is investigated by the CID, Tripura but immediately a specific case shall be registered under Section 302 IPC as we are satisfied that a cognizable offence has been disclosed. Even the status report has unravelled a cognizable offence.

But we will not stop here. The Director General of Police, Tripura is further directed to ensure that the case is monitored very seriously by the Inspector General of Police who commands supervisory authority over the CID as this development has put this court on alert for the way the police has conducted this case even after receipt of a report of cognizable offence, which is disturbing to the tenet of the rule of law.

The petitioner shall be at liberty, if she is aggrieved by the investigation at any stage, to approach this Court seeking proper relief.

With the above directions, this petition stands allowed to the extent as indicated above.

A copy of the written instruction as produced by Mr. Ghosh, learned PP be kept in the record for future reference.