

THE HIGH COURT OF TRIPURA
A G A R T A L A

Cont. Cas(C) No. 08 of 2015

Court on its own motion.

.....Petitioner.

Vrs.

Shanti Bhusan Bhuiya.

.....Respondent.

B E F O R E
THE HON'BLE CHIEF JUSTICE MR. DEEPAK GUPTA

For the petitioner : Court on its own motion
For the respondent : Mr. S. M. Chakraborty, Sr. Adv.
Ms. D. Das, Adv.
Ms. B. Chakraborty, Adv.

Date of hearing &
Judgment & Order : **3rd March, 2015.**

Whether fit for reporting :

Yes	No
	√

JUDGMENT & ORDER (ORAL)

On 19th February, 2015 while disposing of Anticipatory Bail No.16 of 2015 this Court has made the following observations:

"7. The prosecutrix was missing for 7 days. She was produced in the police station by Lakhi Charan Das uncle of the other co-accused. Even, according to the informant, the Officer-in-Charge of the police station asked him to lodge a complaint in writing but he did not do so. One can appreciate the feelings of a father who has recovered his daughter and may not want the whole issue to become public but in this case such an argument will not hold water because, according to the informant himself, on 24th December 2014 when his daughter was returned at the police station, a large number of relatives from both sides were present. Therefore, the knowledge that the young girl was missing was already in the public domain and nothing was secret by then.

8. It is indeed shocking that the Officer-in-Charge of the Kalyanpur Police Station did not make any effort to himself record an FIR. A minor girl allegedly aged about 15 years was being produced in the police station after she had been missing for 7

days. This Court is firmly of the view that a duty was cast upon the police official to have asked the minor girl where she had been and who had taken her away from the custody of her parents. The police official did not have to wait for the girl or her father to lodge a complaint in writing. If the girl at that very time had told him that she had been kidnapped by any one of the accused with the help of the other co-accused, a cognizable offence would have been disclosed and FIR should have been lodged."

Thereafter this Court had made reference to the judgments of this Court in ***Crl. A (J) No.4 of 2010 (Sri Mrinal Bhowmik and another Vrs. State of Tripura)*** and in ***Criminal Appeal No.33 of 2010 (Sri Jhunu Das Vrs. State of Tripura)*** as well as the judgment of the Apex Court in ***Lalita Kumari Vs. Govt. of U.P & Ors. (AIR 2014 SC 187)*** and observed as follows:

"11. This Court has not taken a serious view of the matter with respect of those cases where the incidents had occurred prior to the judgments delivered by this Court. The law of the land is that as soon as a cognizable offence comes to the knowledge of the police officer he is duty bound to record an FIR. In a case like the present one, where the victim is a young girl aged bout 15 years, a duty is cast upon the police officer to record her statement then and there. Even if he did not record her statement he should have taken her to the nearest judicial magistrate to ensure that her statement is recorded under Section 164 Cr.P.C. It was the duty of the police officer concerned, to find out where the girl had been for one week. He should have asked her whether she was subjected to any sexual or physical abuse. Unfortunately, the police officer showed total lack of sensitivity in the matter. According to the complainant, the police officer told him that he should lodge a complaint in writing. The police officer cannot abdicate his functions and cast the burden on poor rustic villagers who may not even be aware about the intricacies of law and may not be aware how and in what manner the FIR is to be filed."

Finally, this Court had granted bail to two of the petitioners but had rejected bail of one of the petitioners and had thereafter ordered as follows:

"15. Registry is directed to find out who was the Officer-in-Charge of Kalyanpur Police Station on 24th

December, 2014 and notice shall be issued to that police officer to show cause why action should not be taken against him under the Contempt of Courts Act for violation of the orders of this Court. The concerned Officer-in-Charge of the Police Station shall appear in this Court along with the G.D. Entry Book of 24th December, 2014. That matter shall be registered separately and be listed on 3rd March, 2015.

16. A copy of this order shall be sent to the Director General of Police to again be circulated amongst all police officers to ensure that the police officers show some sensitivity in these cases involving offences against minor children and that too young girls. The Director General of Police is further directed to carry out a sensitization programme to sensitize all the police officers with regard to such offences."

[2] Consequent to the notice issued, Sri Shanti Bhusan Bhuiya, Officer-in-Charge of Kalyanpur Police Station, District- Khowai has filed a reply to the notice. According to this reply on 24.12.2014 when the prosecutrix was brought to him by one Lakhi Charan Das, S/o. Late Atul Chandra Das of Kamalnagar he had asked woman Constable Smt. Himani Debbarma and two other Constables to interrogate the prosecutrix and in this regard G.D Entry No.1008/21:30, dated 24.12.2014 has been attached as Annexure-R/1. Thereafter the father of the victim was called and then the prosecutrix stated that she had left her house voluntarily and the father refused to lodge a case. According to the respondent no allegation of any cognizable offence was made before him and therefore, he had not lodged any case. He has also enclosed copy of the G.D Entry No.1010/22.30, dated 24.12.2014, Annexure-R/2 in this regard. The girl was handed over to the father.

[3] Unfortunately, at the time when I was dealing with the anticipatory bail application, the factum of the G.D entries was not brought to my knowledge. If these facts had been brought to my notice that the prosecutrix had herself stated that she had left her house voluntarily of her own

accord probably bail could have been granted to the person whose bail application has been rejected.

[4] In view of the reply filed by Sri Shanti Bhusan Bhuiya, the notice issued against him is discharged and the matter is closed.

A copy of this order shall also be sent to the Director General of Police so that he need not take any further action in accordance with the previous direction issued by this Court.

CHIEF JUSTICE