

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1126 of 2013
IN
Civil Writ Jurisdiction Case No. 6908 of 2013

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Ajay Kumar, Son of Sri Moti Lal Singh, Resident of Village- Mahabal Bigha, P.O.-
Purahara, P.S.- Haspura, District- Aurangabad

.... Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Home Department, Govt. of Bihar, Patna
2. The Director General of Police (D.G.P.) Bihar, Patna
3. The Deputy Inspector General of Police, Magadh Range, Gaya
4. The Superintendent of Police Jehanabad, District- Jehanabad

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. P.K. Shahi, Sr. Advocate
Mr. Arvind Pd. Singh, Advocate

For the State : Mr. AC to PAAG- 1

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CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH
and
HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

Date: 22-09-2016

Delay in filing the memo of appeal is condoned.

I.A. No.6486 of 2013 is, accordingly, disposed of.

Heard Sri P.K. Shahi, learned Senior Counsel in
support of the appeal and learned counsel for the State.

This appeal is directed against the order dated
01.05.2013, passed by learned Single Judge in C.W.J.C. No. 6908 of
2013 (Ajay Kumar Vs. The State of Bihar and others) whereby the
writ petition, filed by the appellant challenging the order of the
Director General of Police refusing to interfere in the matter of
punishment, was dismissed.

The facts are not in dispute. The writ petitioner-



appellant was posted at Jehanabad. He was in police service. It was alleged that he left duty without prior leave or information. He carried his arms and ammunitions with him unauthorizedly. He, while returning to report for duty, allegedly got kidnapped and lost his arms and ammunitions to the kidnappers. His conduct led to departmental proceedings in which extreme punishment of dismissal was awarded by the Superintendent of Police, Jehanabad, which was affirmed in appeal and not interfered by the Director General-cum-Inspector General of Police in the memorial, filed. Against this, the writ petitioner-appellant filed writ petition, which was dismissed. He preferred letters patent appeal being L.P.A. No. 63 of 2006, which was substantially dismissed under order dated 05.12.2006 giving liberty to the writ petitioner-appellant to represent to the authorities in respect of proportionality of punishment. The effect thus is, so far as the guilt of the writ petitioner-appellant is concerned, that stands established. The only question would be of proportionality. Accordingly, the writ petitioner- appellant moved the Director General of Police, who, noticing the facts aforesaid, refused to interfere in the matter of punishment. Learned Single Judge in the writ petition, challenging that order, noticing the facts, has refused to interfere.

It is well settled that whenever there is discretion of the authority to impose a punishment, the punishment has to be proportionate to the delinquency, that is the prerogative of the

authorities imposing punishment, which is normally not to be interfered with, unless it is shocking to the conscience of the Court. Once the Director General of Police has refused to interfere with the quantum of punishment, the learned Single Judge also refused to interfere, then ordinarily in matters of discretion in this intra-court appeal, we should not interfere.

However, in the facts aforesaid, where the petitioner left his place of posting at Jehanabad without authorization, carried his arms and ammunitions, which any policeman knows he cannot do, and went to an extremist effected area where his house is situated, are acts which require extreme punishment. The fact of the matter is that on his return he was kidnapped and his arms and ammunitions taken away. Police has registered a case and filed charge-sheet showing all the three kidnappers absconder, but that makes little difference. It is the dereliction of duty for which the punishment is.

In the facts aforesaid, we are not inclined to interfere in the matter. It is, accordingly, dismissed.

(Navaniti Prasad Singh, J.)

(Nilu Agrawal, J.)

Arjun/Rajesh/AFR

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