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HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (HC) No. 24 of 2015

Chaturgun Ram S/o Santoshi, Aged About 56 Years R/o Sonawal, Thana Sonawal, P. O. Sonawal, Tehsil Ramanujganj, Distt. Balrampur Ramanujganj (Chhattisgarh)

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary, Home Department, Mahanadi Bhawan, Mantralaya, Naya Raipur, Distt. Raipur (Chhattisgarh)
2. Inspector General Of Police, Sarguja Range, Sarguja, Distt. Sarguja (Chhattisgarh)
3. Superintendent Of Police, Police Distt. Balrampur, Distt. Balrampur Ramanujganj (Chhattisgarh)
4. Station House Office, Police Station Sonawal, Distt. Balrampur Ramanujganj (Chhattisgarh)
5. Afjal Khan S/o Ajhar Khan R/o Sonawal, Thana Sonawal, P. O. Sonawal, Tehsil Ramanujganj, Distt. Balrampur Ramanujganj (Chhattisgarh)

---- Respondents

And

Writ Petition (Cr) No. 55 of 2014

1. Asgari Khatoon Wd/o Lt Azhar Husain Aged About 45 Years R/o Sanawal, Ps Sanawal, Civil & Revenue Distt Balrampur, Chhattisgarh
2. Mohd. Shoukat S/o Lt Azhar Husain, Aged About 21 Years Occupation Fabrication, R/o Sanawal, Ps Sanawal, Civil & Revenue Distt Balrampur, Chhattisgarh
3. Mohd. Jameer S/o Lt Shahabuddin Aged About 40 Years Occupation Painter, R/o Ahmed Colony, Manendragarh, Distt Korea, Chhattisgarh
4. Bashir S/o Lt. Shahabuddin, Aged About 45 Years Occupation Grossry Shop, R/o Sanawal, Ps Sanawal, Civil & Revenue Distt Balrampur, Chhattisgarh
5. Mohd. Mustakem S/o Abdul Jabbar Aged About 46 Years Occupation Labour, R/o Sanawal, Ps Sanawal, Civil & Revenu Distt Balrampur, Chhattisgarh
6. Mohd. Abrar S/o Abdul Jabbar Aged About 28 Years Occupation Labour, R/o Gadhwa, Distt Palamu (Bihar)
7. Hafiz Mohiuddin S/o Shababuddin Aged About 55 Years R/o Sanawal, Ps Sanawal, Civil & Revenue Distt Balrampur, Chhattisgarh
8. Jiyayul Haque @ Chhote S/o Mojibul Haque, Aged About 27 Years Occupation Cloth Merchant, R/o Sanawal, Ps Sanawal, Civil & Revenue Distt Balrampur, Chhattisgarh

---- Petitioners

Vs

1. State Of Chhattisgarh Through The Secretary, Home Department, Mahanadi Bhawan, Mantralaya, Raipur, Distt Raipur, Chhattisgarh
2. Director General Of Police Raipur, Distt Raipur, Chhattisgarh
3. Inspector General Of Police Ambikapur, Distt Surguja, Chhattisgarh
4. Superintendent Of Police Balrampur, Distt Balrampur, Chhattisgarh
5. Station House Officer P.S.Sanawal, Distt Balrampur, Chhattisgarh
6. Mr. G.S.Darro Aged About 55 Years Superintendent Of Police, Balrampur, Distt Balrampur, Chhattisgarh
7. Rannu Singh Munshi, Ps Sanawal, Distt Balrampur, Chhattisgarh
8. Sameer Shukla Constable, Crime Branch, Ps Sanawal, Distt Balrampur, Chhattisgarh
9. Sudhir Constable, Crime Branch, Ps Sanawal, Distt Balrampur, Chhattisgarh
10. Ashok Kannoujia Head Constable, Ps Sanawal, Distt Balrampur, Chhattisgarh
11. Pawan Kannoujia Sepoy, Ps Sanawal, Distt Balrampur, Chhattisgarh

---- Respondents

For Petitioner	: Shri Sanjay Patel, Advocate {In WP(HC) No. 24 of 2015}
For Petitioners	: Ms. Hamida Siddique, Advocate {In WP(Cr) No. 55 of 2014}
For State	: Shri B. Gopa Kumar, Deputy Advocate General.
For Respondents	: Shri Goutam Khetrapal, Advocate {In WP(Cr) No. 55 of 2014}

No. 6 to 11

Hon'ble Thottathil B. Radhakrishnan, Chief Justice
Hon'ble Shri Justice P. Sam Koshy

Judgment on Board

Per Thottathil B. Radhakrishnan, Chief Justice

02.05.2017

1. Writ Petition (Cr) No.55 of 2014 was initially filed as Writ Petition (C) No.610 of 2014 before the learned Single Judge seeking a direction to the police officials not to harass the Petitioners in the name of interrogation. That was dismissed at some point of time for default, later restored and then made over to the Division Bench.
2. Writ Petition (HC) No.24 of 2015 was filed on 05.10.2015 long after institution of the earlier matter before the learned Single Judge. Writ

Petition (HC) No. 24 of 2015 seeks a writ in the nature of habeas corpus in re Rita, the daughter-in-law of the Petitioner therein.

3. Going by the pleadings in both these cases, Rita was married to the son of Chaturgun Ram, the Petitioner in Writ Petition (HC) No.24 of 2015. Satyam and Shivam are her children. It appears that she went missing and her non-availability is attributed to the Respondent No. 5 in Writ Petition (HC) No. 24 of 2015, namely Afjal Khan.
4. Afjal Khan's mother and siblings are the Petitioners in Writ Petition (Cr) No. 55 of 2014 in which they alleged that as a consequence of the lodgment of an FIR as to the missing of Rita, they are summoned or even otherwise brought to the police station and subjected to harassment.
5. On the totality of the facts, it appears that Afjal Khan and Rita belong to two different communities. The missing of Rita is an issue which is now being vigorously investigated by the jurisdictional police as reflected through the pleadings placed on record by the police officials in Writ Petition (HC) No. 24 of 2015. In that context, it would not be out of place for the police, mother and siblings of Afjal Khan to give statements or being subjected to questioning as part of the investigation. That however does not mean that those persons could be subjected to any form of harassment or action which would not fall within the legitimate form of investigation in terms of Code of Criminal Procedure and other authorising statutory provisions.
6. Having considered the gamut of facts in both the cases together, we are of the view that ends of justice would be satisfied if the jurisdictional police vigorously proceeds with the investigation as regards the missing of Rita and her children, Satyam and Shivam and also would require the

mother and the siblings of Afjal Khan only for the purpose of giving any statement or being questioned in accordance with law with prior notice being issued to them for summoning them.

7. These writ petitions are accordingly ordered directing that the aforesaid shall be carried out and conformed with, thereby the State police making all out efforts to trace out Rita, Satyam and Shivam. It is clarified that the Petitioners in Writ Petition (Cr) No. 55 of 2014 shall not be subjected to any action otherwise as part of due process of law, in terms of what is directed above.
8. On the totality of the facts, we are of the view that no substantial material is available in order to order payment of compensation in favour of the Petitioners in Writ Petition (Cr) No. 55 of 2014. We are also of the view that any such order issued by this Court will only hamper the process being pursued by the police to reach at Afjal Khan who appears to be a wrong doer in this case, going by the submissions made on behalf of the police.

Sd/-
(Thottathil B. Radhakrishnan)
Chief Justice

Sd/-
(P. Sam Koshy)
Judge