

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPCR No. 404 of 2018

1. Smt. Usha Yadav Wd/o Late Shri Mohan Yadav, Aged About 45 Years, R/o Chantidih, Police Station Sarkanda, Bilaspur, District Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh
2. Ku. Jyoti Yadav D/o Late Shri Mohan Yadav, Aged About 20 Years, R/o Chantidih, Police Station Sarkanda, Bilaspur, District Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh
3. Ajay Yadav S/o Late Shri Mohan Yadav, Aged About 25 Years, R/o Chantidih, Police Station Sarkanda, Bilaspur, District Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh
4. Janardan Naidu S/o Late Shri Jagdish Naidu, Aged About 29 Years, R/o Chantidih, Police Station Sarkanda, Bilaspur, District Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh

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Versus

1. State of Chhattisgarh Through Secretary, Department of Home/ Police Secretariat, Mahanadi Bhawan, P.S. and Post Rakhi, New Raipur District Raipur Chhattisgarh., District : Raipur, Chhattisgarh
2. Director, Central Bureau of Investigation, Special Crime - II, Plot No. 5 (B) CGO Complex, Lodhi Road, Opposite Electronic Niketan, Office, Delhi - 110003., Delhi
3. Director General of Police (DGP), Police Headquarters (PHQ), Near Mahanadi Bhawan, Mantralaya, P.S. and Post Rakhi, New Raipur, District Raipur., District : Raipur, Chhattisgarh
4. Collector, Bilaspur, District Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh
5. Inspector General of Police (IGP) Office of Inspector General of Police, Civil Line, Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh
6. Superintendent of Police (S.P.), Office of The Superintendent of Police, Collectorate, Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh
7. The Station House Officer, Police Station Sarkanda, Bilaspur, District Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh
8. Khurshid Ahmed S/o Late Shri Meergulam Rasoi, Aged About 48 Years, Constable No.65 Posted at Police Station Sarkanda Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh
9. Kamal Prasad Kurre S/o Shri Roop Sahai Kurre, Aged About 26 Years, Constable No.137, Posted at Police Station Sarkanda, Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh
10. Indra Kumar Patel S/o Shri Mohan Lal Patel, Aged About 27 Years, Constable No.1011, Posted at Police Station Sarkanda Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh

---- Respondents

For Petitioners – Shri Lavkush Sahu, Advocate.

For State/Respondent No.1 and 3 to 7 – Shri Adil Minhaj, Govt. Advocate.

For CBI/Respondent No.2 – Shri Krishna Gopal Yadav on behalf of Shri B.Gopa Kumar, A.S.G.

Hon'ble Shri Justice Rajendra Chandra Singh Samant
Order on Board

17-09-2019

Heard.

1. Instant petition has been brought under Article 226 of the Constitution of India praying for issuance of appropriate writ(s)/direction(s)/order(s) etc.

2. It is submitted that Deepak @ Chhotu Yadav was S/o petitioner No.1 who had died in police custody on 03-12-2016. The story of the respondents is unbelievable that the deceased was caught when he was committing theft by the residents of locality and was handed over to the police and then when he was taken in a jeep, he made his escape and fell down in an open well and has died due to drowning. The news reports and the evidence in the enquiry are very much contradictory and the fall of son of the petitioner in the said well is also improbable. The Magistrial enquiry that has taken place itself shows that the report was given suppressing the fact of custodial death of the deceased. As there is no registration of crime in this case, therefore, the petitioner have not been benefited with any compensation. An application was submitted to District Legal Services Authority for grant of compensation, but, that also has been rejected only on the ground that there is no FIR registered regarding the death of the deceased. In fact, it is a case of murder of the deceased in police custody. Therefore, it is prayed that respondent No.2, CBI be directed to lodge the FIR and investigate the case and also this Court may direct respondent No.1 to award compensation to the petitioners.

3. Learned counsel for State opposes the petition and submission made in this respect. It is submitted that the facts of the death of the deceased are very much clear to show that he had been for committing of offence of theft and he was caught by the residents of the locality and handed over to the police, further when the deceased was being conveyed to police station in vehicle he himself escaped and fell down in a well, where he died due to drowning which

is confirmed by the postmortem report. Therefore, it is not a case of death due to any custodial torture. The Judicial enquiry conducted has also ended with report that the death of the deceased was accidental. Therefore, the petition is totally without any substance.

4. Heard learned counsel for both the sides and perused all the documents filed along with the petition.

5. On perusal of the record and report of the judicial enquiry the facts are disclosed that on 02-12-2016 the deceased had made entry in one house in Songanga colony for committing theft. He was seen by the residents of that colony, then he attempted to escape by jumping from the balcony because of which he suffered injury on his head. The deceased was then caught hold of by the residents of that locality and handed over to the police patrolling party. As the deceased was injured he was being taken to the hospital in a vehicle of police patrolling party. When the vehicle slowed down in between the deceased jumped from the vehicle and ran towards the Palm Enclave Apartment, while jumping from the wall he fell down in a well which was inside the compound and died due to drowning. In the judicial enquiry apart from examining the police witnesses, local witnesses have also been examined and on the basis of the statements given it has been found confirmed that cause of death of the deceased had been accidental after he made escape from police custody, therefore, it cannot be said that it is a case of custodial death. The Judicial enquiry has been made thoroughly and there is nothing to comment on the improbability of the said incident which is an accident. Therefore, I do not find any substance in this petition, which is dismissed at the motion stage.

Sd/-
(Rajendra Chandra Singh Samant)
Judge