

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPCRL No. 368 of 2014

Jahera Bibi

.....

Petitioner

Mr. G.C. Swain, Advocate

-versus-

***Director General of Police,
C.I.D., Crime Branch and
Ors.***

.....

Opposite Parties

Ms. S. Patnaik, AGA

CORAM:

JUSTICE S. TALAPATRA

JUSTICE M.S. SAHOO

ORDER

08.08.2022

Order No.

08.

1. This matter is taken up through hybrid mode.
2. Heard Mr. G.C. Swain, learned counsel appearing for the Petitioner.
3. Mr. Swain, learned counsel has submitted that the rejoinder in response to the counter affidavit, filed by the Respondent No.5, has been in the Court by the Petitioner. The said rejoinder is taken on record.
4. The Petitioner is the wife of the missing person, namely, Sk. Usman, who boarded the LTT Express Train from Mumbai to reach Cuttack on 16.09.2014/17.09.2014. But when the Train arrived at Cuttack, Sk. Usman was not found in the allotted Seat No.32 in Coach No.S/4 in the Train the missing person had boarded, as per the statement of his son-in-law. The police has also verified and found that, that

particular seat was allotted to the missing person. Strangely, his belongings were found in the Bhubaneswar Station. According to the Opposite Party No.5 by verifying the missing person's Mobile Phone IMEI, it has been found that the said phone was used last by the missing person on 17.09.2014 at 16.49 hours.

5. The grievance of the Petitioner is that the police is not taking appropriate actions for tracing out the missing person. In the meanwhile, a long period of eight years has elapsed, but there is no success in tracking down the missing person. Opposite Party No.5-IIC, Government Railway Police Station, Cuttack, who is investigating case, based on the complaint filed by the Petitioner and trying to trace out the whereabouts of the missing person has stated in the said counter affidavit *inter alia* the facts that the Sk. Usman was not traceable after the last phone. Nor he had not reached Cuttack by the said Train. On receipt of the said information, Cuttack GRPS S.D. Entry No.410 dated 22.09.2014 was made. The said missing report was also entered in Man Missing Register vide MMR No.2/2014 for inquiry. The police could verify that the missing person, who is approximately 60 years of age was staying at Soudi Arab and on his return to Mumbai on 14.09.2014, he stayed with his son-in-law, namely, Sk. Afsar, aged about 42 years. Thereafter, he booked the ticket for Cuttack and boarded the Train at 12.00 of intervening night 16.09.2014 and 17.09.2014. According to the said IIC, they had sent WT

message without losing time for CIG publication. The IIC, the Cuttack, GRPS had sent one police officer to Mumbai under command being C.C No.1260939 dated 30.09.2014 with the family members of the missing person. After reaching Mumbai, the said police officer verified the CCTV footage of PF No.2, where from the missing person had boarded the Train No.12879 LTT BBSR Express. On verification no fruitful result could be derived.

6. The Petitioner filed a separate complaint to LTT GRP vide MMR No.41 dated 21.09.2014 for finding the missing person and for ascertaining the fact whether from LTT, the missing person had at all boarded the Train or not.

7. According to Mr. Swain, learned counsel for the Petitioner, the LTT Express Train wades through different four States to reach Odisha. But the concerned GRPS were not communicated in time. That was fatal. Nothing surfaced from the said police action.

8. Ms. S. Patnaik, learned Additional Government Advocate appearing for the State has emphatically submitted that the police has taken all possible actions and they are relentless and carrying forward the inquiry to find out the missing person.

9. According to us, this writ petition cannot be treated for purpose of issuance of habeas corpus, in as much as, there is no allegation of illegal custody or illegal detention or arrest

etc. But we find that the missing person is still at large. It is whereabouts are not even traced out, after all these years.

10. Having regard to that aspect, as aforestated, we dismiss the writ petition, as a petition for habeas corpus for having no requisite ingredient. However, we direct the Respondents particularly, the Respondents No.3, 4 and 5 to continue rigorously the search operation for finding out the missing person. The Respondent No.2-Inspector General of Railway Police, Cuttack shall periodically monitor the progress and inform the Petitioner, if there is any progress in the said investigation.

11. With the aforesaid observation, this writ petition stands disposed of.

12. A free copy of this order be supplied to Ms. S. Patnaik, learned Additional Government Advocate for onward transmission.

(S. Talapatra)
Judge

(M.S. Sahoo)
Judge