

(2011) 06 JH CK 0068

In the Jharkhand High Court

Case No : Writ Petition (H.B) Cr. No. 182 of 2008 and I.A. No. 1188 of 2011

Baliram Paswan and Others

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 27-06-2011

Acts Referred:

Constitution of India, 1950 — Article 226

Criminal Procedure Code, 1973 (CrPC) — Section 173

Citation : (2011) 4 JCR 58

Hon'ble Judges : Prakash Tatia, Acting C.J.; P.P. Bhatt, J

Bench : Division Bench

Advocate : A.K. Trivedi, for the Appellant; R.R. Mishra, G.P. II, for the Respondent

Judgement

I. A. No. 1188 of 2011

1. Learned Counsel for the State submits that since the Superintendent of Police, Gumla could attend the Court, he is not pressing this Interlocutory Application.

2. Since the concerned Superintendent of Police is present in the Court, the Interlocutory Application has become infructuous. Hence, 1. A No. 1188 of 2011 is dismissed as infructuous.

W.P. (H.B.) Cr. No. 182 of 2008

3. The writ petition which was filed before this Criminal Bench has been ordered to be place before the Division Bench after registering it as Habeas Corpus petition by order dated 17.06.2011 and, therefore, this matter comes up before this Court.

4. The Superintendent of Police, Gumla is present in person. A full and detailed report has been submitted and it has been submitted that during investigation confessional statement was recorded that one Lalku Nayak has received Rs. 1,30,000/- as ransom amount. However, the three minor children are yet missing

and could not be traced out. However, it is submitted that in the F.I.R., Gumla P.S. Case No. 86 of 2008, it has been alleged that three children have been kidnapped. Ultimately vide Memo No. 609 of 2011, investigation has been closed and thereafter a supplementary charge-sheet has been submitted against accused, Ranthu Singh vide Memo No. 638/AP.AH dated 30.4.2011.

5. Be that as it may, the fact is that three children are missing since 2008. It is true that there is a provision in the Code of Criminal Procedure itself for moving application before the Magistrate for searching the person whose whereabouts are known to a person and who are in wrongful custody of any person, but entertaining of Habeas Corpus is not barred, which can be invoked by a person in given facts of the case to activate the State authorities in the matter of life and safety of corpus.

6. In this case, Learned Counsel appearing for the State submitted that they will try their best to search out the corpus of the boys to produce before this Court but in peculiar situation of terrorist activities which is in the State of Jharkhand the task is very difficult. We are conscious of this fact that the task of the police officials is not easy and is also very difficult.

7. We want to make it clear that it is more seriously required to be undertaken to search the corpus of the missing boys for the same reason that in the State, terrorists are more active and a criminal case may be closed down by submitting the Final Report u/s 173 of the Code of Criminal Procedure, then the provision under Article 226 of the Constitution of India is the appropriate remedy so that the corpus is produced before this Court.

8. Learned Counsel for the State submitted that the they will be submitting another report which will disclose the efforts made by the police Officials in searching the boys. Since the search may require some more time, it has been prayed that longer date may be given so that the detailed report may be submitted with respect to taking of the steps by the State.

9. In view of the above reasons and peculiar fact situation of the State of Jharkhand, we are granting time to the State to produce the corpus in Court on 8th August, 2011 or submit a report of the steps taken.

10. The petition shall fully cooperate the police officials in searching out the the children.

11. On the next dates, the Superintendent of Police, Gumla need not to remain present.