

(2016) 06 JH CK 0009

In the Jharkhand High Court

Case No : Writ Petition (PIL) No. 3134 of 2016

Court On Its Own Motion

APPELLANT

Vs

State of Jharkhand

RESPONDENT

Date of Decision : 19-06-2016

Acts Referred:

Constitution of India, 1950 — Article 226

Criminal Procedure Code, 1973 (CrPC) — Section 160

Juvenile Justice (Care and Protection of Children) Act, 2015 — Section 75

Citation : (2016) 4 AIRJharR 822 : (2016) 3 JLJR 245

Hon'ble Judges : Mr. Virender Singh, CJ.

Bench : Single Bench

Final Decision : Dismissed

Judgement

Virender Singh, C.J. - A news item in the Daily Newspaper "Hindustan Times" in its Ranchi edition dated June 19, 2016 revealed that a Jharkhand Police Assistant Sub Inspector subjected inhuman torture on a minor girl for more than 10 hours at the Manika Police Station, Latehar. According to the parents of the girl, the minor lost consciousness soon after she was handed over to the parents, who were made to wait outside the police station all day while the ASI subjected her to inhuman torture. She was being questioned over the elopement of another girl from her native village Ranki-kala with a boy. The news item further reveals the parents to have quoted the girl as saying that she was beaten up all over and throttled by the police officer during interrogation. The parents have also alleged that neither they nor any woman constable was present during the interrogation. According to the news report, the parents rushed her to a hospital at Tumbagara in Palamu from where she was referred to the Rajendra Institute of Medical Sciences (RIMS) in Ranchi. From the news report it appears that the incidence is of Tuesday, i.e., 14th June, 2016.

2. This Court suo moto taking cognizance of the above news item published in the Daily Newspaper registers the same for consideration of various issues

involved and emanating from it as a Public Interest Litigation and following persons are being made as party respondents: -

- 1) The State of Jharkhand through the Chief Secretary, Jharkhand;
- 2) The Principal Secretary, Department of Health, Medical Education & Family Welfare, Government of Jharkhand, Nepal House, Doranda, Ranchi.
- 3) The Director General of Police, Jharkhand, Ranchi;
- 4) The Dy. Commissioner, Latehar
- 5) The Superintendent of Police, Latehar;

3. In the present incidence, it appears that the minor girl was brought to the police station by the Assistant Sub Inspector of Police for interrogation as a witness in connection with elopement of another girl with a boy of the native village. In doing so, it appears that provisions of Section 160(1) Cr.P.C. have not been adhered to by the police personnel. Section 160(1) Cr.P.C. reads as under: -

160. Police Officer's Power to require attendance of witnesses. ?

(1) Any police officer making an investigation under this Chapter may, by order in writing, require the attendance before himself of any person being within the limits of his own or any adjoining station who, from the information given or otherwise, appears to be acquainted with the facts and circumstances of the case; and such person shall attend as so required;

Provided that no male person under the age of fifteen years or above the age of sixty-five years or a woman or a mentally or physically disable person shall be required to attend at any place other than the place in which such male person or woman resides.

4. The Court is taking serious note that police in the State is not following the basic norms of investigation as provided under the Code of Criminal Procedure and this is one such glaring example where police has failed in its duty.

5. The police officer concerned in the incidence on hand has not only violated the provisions of 160(1) Cr.P.C., but has also committed an offence under Section 75 of the Juvenile Justice (Care and Protection of Children) Act, 2015. It reads as under: -

75. Whoever, having the actual charge of, or control over, a child, assaults, abandons, abuses, exposes or wilfully neglects the child or causes or procures the child to be assaulted, abandoned, abused, exposed or neglected in a manner likely to cause such child unnecessary mental or physical suffering, shall be punishable with imprisonment for a term which may extend to three years or with fine of one lakh rupees or with both; ?????"

6. There appears to be a prime need in the State for sensitizing the police as the police units are the first to come into contact with children in conflict with law,

victims of crime and abandoned children. It is a matter of concern for the State that child rights are protected and preserved. The Supreme Court of India also in a catena of cases expressed concern over protection and preservation of child rights.

7. In case *D.K. Basu v. State of West Bengal* [(2015) 8 SCC 744], the Hon"ble Supreme Court, per Hon"ble the Chief Justice of India (Hon"ble Mr. Justice T.S. Thakur), has lamented the growing incidence of torture and deaths in police custody. It also noted that although violation of one or the other of the human rights has been the subject matter of several Conventions and Declarations and although commitments have been made to eliminate the scourge of custodial torture yet gruesome incidents of such torture continue unabated. The Supreme Court described "custodial torture" as a naked violation of human dignity and degradation that destroys self-esteem of the victim and does not even spare his personality. Custodial torture, observed the Court, is a calculated assault on human dignity and whenever human dignity is wounded, civilisation takes a step backwards.

8. Before proceeding further, this Court also takes note of the provisions made under Section 10 in Chapter IV of the Juvenile Justice (Care and Protection of Children) Act, 2015 which deals with the procedure in relation to children in conflict with law. It reads thus: -

10 (1) As soon as a child alleged to be in conflict with law is apprehended by the police, such child shall be placed under the charge of the special juvenile police unit or the designated child welfare police officer, who shall produce the child before the Board without any loss of time but within a period of twenty-four hours of apprehending the child excluding the time necessary for the journey, from the place where such child was apprehended:

Provided that in no case, a child alleged to be in conflict with law shall be placed in a police lockup or lodged in a jail.

(2) The State Government shall make rules consistent with this Act, -

(i) to provide for persons through whom (including registered voluntary or non-governmental organisations) any child alleged to be in conflict with law may be produced before the Board;

(ii) to provide for the manner in which the child alleged to be in conflict with law may be sent to an observation home or place of safety, as the case may be.

9. It is very important for the Police to understand Juvenile Justice System through workshop on Sensitizing of Police which is need of hour. Very recently a programme was organised by the Committee of Juvenile Justice, State of Meghalaya in collaboration with Meghalaya State Legal Services Authority, Department of Social Welfare and Office of Director General of Police, Meghalaya in which Hon"ble Mr. Justice Madan B. Lokur, Judge, Supreme Court of India, being the Chief Guest, expressed that Police Academy has an important role and

responsibility to train its officers about Juvenile Justice System. His Lordship called upon all the related Departments to work in convergence for protecting the needs and rights of the child and thereby creating a child friendly environment while delivering justice to them. JHALSA is required to take up this issue on priority basis and work out accordingly. Judicial Academy of the State of Jharkhand can take up this sensitive issue while imparting training to the police of Jharkhand State.

10. Let notice be issued to the respondents.

11. The respondents are being directed to file their counter affidavits with regard to acknowledge this court about the cause of accident, measures, both interim and final, are being taken for preventing the similar accident in future, about the persons who are responsible for the above accident and the steps which has been taken against them.

12. The Deputy Commissioner, Latehar is directed to submit a detailed report to this Court on or before the next date, i.e., the 22nd June, 2016 (Wednesday) by 10.30 a.m. positively incorporating all the steps taken by the administration to alleviate the suffering of the minor girl victim of inhuman torture subjected by the police officer regarding which news has been published in the Daily Newspaper "Hindustan Times" in its Ranchi Edition dated 19th June, 2016 and further steps, if any, contemplated by the District Administration in this respect.

13. The Respondents are directed to take all the steps which are necessary for proper treatment of the minor girl for giving proper assistance to the parents of the minor girl. The Member Secretary, JHALSA, is also directed to coordinate with the district administration and oversee into the matter from all aspects in accordance with law.

14. The State of Jharkhand through its Chief Secretary, without prejudice to any other rights or remedies of the minor girl or her family in any other proceedings, is also directed to pay interim compensation to the tune of Rs.50,000/- (Rupees Fifty Thousand) to the father of victim minor girl immediately and report compliance of such payment to this Court on or before the next date, i.e., 22nd June, 2016 (Wednesday) by 10.30 a.m. positively.

15. Registry is directed to diarize it as Public Interest Litigation and place it before Division Bench-I again on 22nd June, 2016 (Wednesday).

16. Registry is directed to communicate a copy of this order to the respondents as also to the Member Secretary, Jharkhand State Legal Services Authority (JHALSA) and Director, Judicial Academy Jharkhand.