
(1997) 05 GAU CK 0009
In the Gauhati High Court
Case No : Civil Rule No. 2604 of 1996

Dihu Mech

APPELLANT

Vs

Director General of Police, Assam

RESPONDENT

Date of Decision : 05-05-1997

Acts Referred:

Constitution of India, 1950 — Article 21, 21, 22, 22, 226

Citation : (1997) 2 GLJ 87

Hon'ble Judges : N.Surjamani Singh, J and V.Dutta Gyani, J

Bench : Division Bench

Advocate : Sagarika Barpujari, B.P.Bora, Advocates appearing for Parties

Judgement

V. Dutta Gyani, C.J. (Acting)

1. A complaint received by the Registrar on 26.9.95 against police atrocities by Khatkhathi Police Out Post led to registration of the complaint as a writ petition. By order dated 7.6.96 notices were issued to the Director General of Police, Assam, concerned police officer posted at the abovenamed police outpost and a report from the Superintendent of Police about the allegations made in the complaint registered as a writ petition was also obtained. It is available on record. By the same order Ms. S. Barpujari was appointed as Amicus Curiae.

2. Respondents have filed an affidavit placing true state of affairs (as claimed by the deponent) by Shri G. Bhuyan, IPS, Deputy Inspector General of Police (Administration). Admitted position which emerges from the affidavit filed by the respondent is:

"That on 12.9.95 at about SAM the police personnel from Khatkhathi Police Station brought him to Khatkhathi Police Station on the allegation that there is decoity case against him. From that day he was kept in the lockup of Khatkhathi Police Station for about 6 (six) days. He also stated that during those period he was provided with timely food and his father Niranjan Mech tried to obtain bail which was refused. The victim also stated that during the period confined in the lockup

the police inflicted mild assault on him. Thereafter on one day the Incharge of Khatkhathi Police Station sent him Bokajan Police Station and thereafter he was sent to Diphu Court in connection with a case. Thereafter, he was in Diphu Jail till December, 1995 for about three months. He also stated that prior to that police never arrested him in connection with any case."

3. Although it is admitted that the suspect Madhu Mech was subject to physical assault while in custody, the deponent has sought to qualify it by using the term "Mild". The fact remains that whether mild or hard the person detained was subjected to physical torture, indisputably prohibited under the law. As per the affidavit a departmental disciplinary proceeding against the erring officer was also held and the erring officer has been visited with the penalty of withholding of increment for one year.

4. The report submitted by the DIG refers to certain GD Entries made at the Police Outpost which according to the deponent corroborate statement of all bonafide persons examined as witnesses in the proceedings conducted by him. About such GD Entries, no better answer than the observation made by the Supreme Court in Gauri Shanker Sharma vs. State of UP reported in AIR 1990 SC 709.

5. Learned Amicus Curiae also invited our attention to a recent judgment of the Supreme Court in DK Basu vs. State of West Bengal and Ashok Jahuri vs. State of UP as reported in (1997) 1 SCC 416, and urged for an exemplary compensation be imposed against the State whose officers, indulged in wrongful confinement of Madhu Mech for days on and subjecting him to physical torture.

6. Learned Senior Govt Advocate Mr. BP Borah has come out with an offer of Rs.5,000/ as compensation to the victim of the police atrocities. Life and liberty of a citizen is his priceless right, it can not be calculated in terms of money. The days spend by the victim in police lockup, immaterial whether it is 5 days or 6 days. The very tact that contrary to all norms of civilized behaviour and constitutional rights guaranteed under Articles 21 and 22 of the Constitution, a citizen of the country was detained by overjelous police officer for 5 days without producing before the Magistrate, and at the same time tried to falsify the record to justify their action, calls for not only awarding of compensation, but also ordering prosecution of those who indulged in such activities. To our mind amount of Rs.5,000/ by way of compensation will meet under the public law. So far as the victim is concerned, it is open for him to claim further compensation, if so desired. As the State Government is subjected to pay this amount of Rs. 5,000/, the State is at liberty to recover the amount from the salary of the erring police officer.

7. The amount of compensation as awarded shall be placed at the disposal of the Deputy Commissioner, Karbi Anglong who shall disburse the same to the victim Shri Madhu Mech, son of Niranjan Mech on being properly identified.

8. The complaint received by the Registry be forwarded to the Superintendent of

Police, Karbi Anglong District for registration of criminal case against the officers, which shall be investigated by a competent Police Officer and its status report shall be submitted before this Court every month.

9. Learned Amicus Curiae is entitled to her remuneration for the able assistance rendered by her in disposal of the case.

10. A copy of this order be also supplied to the learned Senior Govt Advocate, Assam for further action from his end.