
(1994) 07 RAJ CK 0019

In the Rajasthan High Court

Case No : Civil Writ Petition No. 2004 of 1994

Kan Singh Sankhla

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 13-07-1994

Acts Referred:

Penal Code, 1860 (IPC) — Section 306

Citation : (1994) CriLJ 3652 : (1994) 2 RLW 281 : (1995) 1 WLC 666 : (1994) 2 WLN 395

Hon'ble Judges : P.K. Palli, J

Bench : Single Bench

Advocate : M. Mridul, M.D. Purohit, Anand Purohit and Sangeet Lodha, for the Appellant; Pradeep Shah, for Jitendra Singh and S.K. Vyas, Additional Government Advocate, for the Respondent

Final Decision : Allowed

Judgement

P.K. Palli, J.—When the exploitative incidents that erode human values and particularly in our society where honour and dignity of women which deserves care, respect and protection is attacked by unscrupulous and unsocial elements for the purpose of lust and greed and such incidents when brought to be noticed by the courts of law and shake the judicial conscientious, the Court cannot shirk its responsibilities towards the society at large and has to perform the duty so that the faith of the people in the system and their hopes and aspiration which are not only to be taken care of but are to be preserved are not shattered. Horrendous deed of such a magnitude as in the present case is brought out to the notice of the Court.

2. The real nature of the horrendous deed is yet to be investigated and examined but on the face of it, it is very unfortunate that in the Indian society which swears by its concern for women that such incident which has a serious reflection on the law and order machinery inasmuch as on the ethico moral values of the responsible kind of people in reportedly involved in a racket of this serious kind.

3. The petitioner in this writ petition has prayed that the investigation in the present case may be got conducted by the Central Bureau of Investigation as under the given facts and circumstances the local police has not fairly conducted the investigation in the matter.

4. It is alleged that the accused being highly influential and connected, the local police has acted under their influence. The facts as emerged out from the petition may be summarised, Miss. Swati, a student of M.A. Geography died in mysterious circumstances on 13-3-1994. It is stated that in the night when the other members of the family were just going to sleep some noise of utensils was heard and the mother of the deceased found Swati drinking water and crying. She was tossing and in hoarse voice told that she has been made to take poison by deception by accused Jitendra. Before the medical aid could be rushed she succumbed to the poison and the matter was reported to the police. While groaning with pain and breathing trouble she told the entire story as to how she has been duped by accused Jitendra and the circumstances under which she has taken the poison bought and brought by Jitendra and given to her pressurising her to take the same. The deceased immediately before her death left behind a note in her own handwriting, wherein she has stated that writing is being made in full senses and responsibility and therein has made Jitendra accused responsible for her death. In the said writing she has given full description of the circumstances that ultimately led to put her life to an end and has also tried to unveil a racket naming several persons therein and their modus operandi. A place known as Parihar Restaurant is stated to be the Addha which is being run by one Mahesh Parihar and all the persons named therein are alleged to be involving innocent girls by alluring them in the dream land and then after using them the innocent girls are left in the mid stream. The owner of that restaurant is also stated to be associated in the nefarious activities. These persons initially assure the girls of their love and after dramatisation they are taken for joy rides and then promises of marriage are assured. It is further said that she is taking the extreme step under the circumstances fearing her name would be blackened and that instances are known to each one in the college regarding their affairs. She has been deceived and that Jitu alias Jitendra Singh accused is responsible for the end of her life. She has also stated that she does not want to die but the accused told her that since the marriage between the two was not possible as his family members would not agree for such a marriage, the solution lies that they both end their lives. The accused brought the material and asked her that he will consume it in the night and she should also follow, it. The matter is alleged to have been given a wide publicity in the media.

5. For the purposes of ready reference I have myself translated the death note Annex. 1 which is stated to be in the handwriting of the deceased and when translated into English it reads like this:-

I am Swati, I am absolutely healthy, conscious and want to disclose that, Jitendra Singh is the only cause of my death. His address:

S/o Shri Jalam Singh Rathore,
Moti Bhawan,
Village Mody,
202, Laxmi Nagar, Paota.

I do not know exactly the plot number, but now-a-days he is employed as L.D.C. in Irrigation Department at Jalore. He owns a Suzuki Samurai Motor cycle. There are other boys of his group whose names are Dimpi (Dimpi had come to my house in the guise of an agent of Ureaka Foam), Simmi, Chutki (they are three brothers), Vishal Parikh s/o Shri Bankat Lal Parikh r/o Ratanada, Babli-Gajendra Singh Add. Neeta Cycle Stores, Ratanada Chandrpal Singh Rana s/o Shri Kusum Rana, Dilip Solanki and Gullu. Their main mission is to entice young girls, lure them with false and big promises and then abandon them. Their main seat Junction is at Parihar Restaurant, Ratanada, wherefrom they start and conduct such activities. This restaurant is run by one Maheshji Shri Maheshji is also associated with these persons. Jeetu (Jitendra Singh) initially befriended me, snowed his deep fondness and love and made false promises of marriage with me. He moved freely with me, dramatised love and gave express assurance for marrying me and I trusted him. But as soon as I again asked him for he promised marriage, Jeetu told me that his family will not accept to this marriage. He then suggested me like this, that you should take "poison" and I also will take poison. I refused and told him that it is a sin to commit suicide and since we both are major, therefore, we can of our own get married. Jeetu then emphatically told me that "this will not be possible". Then he brought and gave me "sulphos" and told me to take it. today and he will also take poison to night. Then he put me to his (Jeetu's) oath. Though people used to tell me that Jeetu is not dependable boy, yet I had faith in him. I have a "desire" to live. But I have been "Badnamed" for Jeetu because every student in the college knows our relations with each other. In spite of all this balashemy, Jeetu is playing fraud and is deceiving me. And it is due to this that I am being compelled to die. Jeetu is the only and sole cause of my death. He decieved me and made fool of me. I have a photo of Jeetu. Jeetu is sole cause of my death.

This fact is known by my whole Department of Geography and all my friends know this fact.

Swati.

6. The F.I.R. Annex. 2 was lodged by the petitioner who is father of the deceased and is based on this writing.

7. Learned counsel appearing for the petitioner contends that the investigating agency in spite of the names of several persons having been mentioned in the death note has not made any investigation against them. The note as read above makes out a case about the gang in existence in this city of Jodhpur and many a girls have fallen prey to these heinous activities and that it was obligatory on the

part of the investigating agency to find out whether the poison which was found near the death bed was brought by the accused or not whether it was the accused Jitendra who purchased, brought and pressurised her to take the same. It is further stated that several representations have been made including the Prime Minister, Home Minister, Chief Minister, Director General of Police Rajasthan. A copy of the same has been placed on the record as Annex. 3. Some replies were also received by the petitioner from these authorities and have been placed on record as Annexs. 4 and 5.

8. Sum total of all what the petitioner who happens to be the father of the deceased says in the petition is that no serious interest is being taken in the investigation by the local police and the matter is being taken in a very casual manner and for quite a few days the investigation did not even commence. On a separate representation made to Shri Amitabh Gupta, Additional Director General of Police C.I.D. (C.B.) Rajasthan Police Head quarters Jaipur a note was recorded by the Additional Director General of Police to the Superintendent of Police, Jodhpur Please look into the matter and ensure deep probe under the Additional Superintendent of Police City. This note is dated 6-4-1994. In spite of this note from one of the responsible authorities, the matter has not been properly investigated as argued by the learned counsel appearing for the petitioner and thus, under the situation it is contended that nothing short of a C.B.I, probe shall unearth the racket. The petitioner further averred that he had informed the police that there were two girls with whom he had a talk on the very day and the day next following. The investigation made by the police has not even cared to enquire from those girls about the matter. The death note which is stated to be a dying declaration should have been taken serious note of and even on the intervention of the Director General of Police no tangible or substantial development has taken place. A copy of the application along with note of the Additional Director General of Police has been placed on the record as Annex. 6. The petitioner under the circumstances has, alleged that where the orders of the Director General of Police Rajasthan have not been cared he has no ray of hope for proper, fair and honest investigation in the matter. It is under these circumstances that a prayer is made in this writ petition for handing over the investigation to the C.B.I, so that the fear of local influence is eliminated. It is an admitted case that the investigations have been directed for making out a case u/s 306, I.P.C.

9. When the petition was filed an order was passed on the stay application by this Court directing the Station House Officer not to put up the challan in the appropriate court. This order was handed down on 28-4-1994.

10. In the mean time an application was moved by the petitioner that since the period of 90 days was expiring and the Station House Officer did not file the challan in the appropriate court in compliance of the order of this Court and in the situation the accused would become entitled for bail on account of non-filing of the challan. Therefore, on the request of the petitioner, the interim order was

vacated and the police authorities were directed to submit the challan before the appropriate court which was consequently filed on 8-6-1994 and the matter was committed to the Court of Sessions. On 18-6-1994 the learned Sessions Judge framed the charge against the accused u/s 306, I.P.C. and ordered the case to be listed for prosecution evidence on 4-7-1994. Since the prayer in the writ petition is for investigation by the C.B.I, another application was moved seeking appropriate order or direction that the trial before the learned Sessions Judge be stayed and on this application on 8-6-1994 this Court directed the Sessions Judge to defer the trial by a month and in the mean-while the case was ordered to be put up before a regular bench for passing appropriate orders. It is in this sequence that the case has come up before me.

11. It will not be out of place to mention here at this stage that an application dated 28-6-1994 was made by Society Abhiyan through its Secretary Govind Mathur saying that the applicant is a Society registered under the Rajasthan Societies Registration Act and from the aforesaid death note it was clear that a group atleast of six persons besides Jitendra accused involved in the racket of beguiling young girls and even after abusing them for sex with promise to marry them the girls were abandoned. The suicide was committed by the deceased and she put an end to her life by taking Sulphose and that the police has challenged accused Jitendra only and that too u/s 306, I.P.C. and no investigations have been made in respect of other persons mentioned therein in the death note. The applicant society has also prayed the matter to be handed over to the C.B.I. as the local police has not been able to investigate the matter in the manner it should have been done and a prayer was made that the applicant be permitted to intervene in the case to support the writ petition and be heard at all stages of the hearing. Learned counsel has stated that the persons mentioned in the death note have been cited as witnesses by the prosecution thereby no further hope is left behind and their apprehensions have come true that the matter has been tried to be hushed up against those persons mentioned in the writtng of the deceased written before her death.

12. An application was also moved by the accused Jitendra Singh for being impleaded as a party respondent which prayer was not opposed and he was permitted to be impleaded as a party respopndent to the writ petition and it is thereafter the case has been heard.

13. Learned Additional Government Advocate appearing for the State vehemently opposed the prayer for investigation by the Central Bureau of Investigations and further submits that the investigations carried out by the police in this case have been proper and fair and that the petition be dismissed as it makes out no case for further probe.

14. I have heard the learned counsel appearing for the parties including .Mr. M. Mridul , Senior Advocate appearing for the applicant Society.

15. Learned counsel appearing for the accused, Jitendra singh has forcefully

contended that no such direction in the circumstances of the case could be issued. A challan has been put up in the Court and in case the petitioner or the applicant Society desires any relief of the kind, they can take appropriate steps by moving an application before the learned Sessions Judge where the matter is now pending. Learned counsel made an attempt to point out the discrepancies in the death note and the F.I.R.

16. I am afraid, I am not prepared to note all those submissions since any observation at this stage might reflect on the trial which is yet to commence.

17. Without touching the merits and demerits of the matter but on a careful analysis of the entire episode that it is really unfortunate that Miss Swati" deceased who was a student of M.A. Geography at a matured age put and end to her life in such mysterious circumstances cannot be lost sight of.

18. A young lady having a potential to make notable contribution to the Society should have been impelled by circumstances to end her life the way she did appears to be a colossal wastage of human material which our society is dedicated to develop. She was yet to get a Master's Degree and was only 21 years at the time of her death.

19. After hearing the learned counsel for the parties and without recording any expression on the merits of the case I am of the considered opinion that the investigations carried out by the police in the present case do not inspire any confidence and a much thorough and deep probe was necessitated by the situation under the circumstances. The matter appears to have been taken in a casual manner in spite of the fact that a note of concern was recorded by the Additional Director General of Police. I have no reason to doubt that the matter, had it been investigated in the gravity of the situation would have brought to light unrevealed truth. On the judicial side we have noticed several cases on the side of atrocities and, cruelties against women in this country. Swati is dead and this death note speaks from her grave. In all fairness I deem it a fit case where the matter should be entrusted to the Central Bureau of Investigation for a fresh and thorough investigation so that the guilty are brought to the book and should not be permitted to escape.

20. I, therefore, direct the Central Bureau of investigation to take over the investigation of the case and probe into the matter deeply. The local police is directed to extend its fullest co-operation to the investigating agency or the team which would investigate the matter. The investigations are further directed to be completed within six weeks from the date of the receipt of the copy of this order by the Central Bureau of Investigation. A copy of the order be sent forthwith by the Registry to the Director, Central Bureau of Investigation, New Delhi for further immediate action in the matter.

Petition, thus, stands allowed.