
(2004) 02 JH CK 0042
In the Jharkhand High Court
Case No : LPA No. 287 of 2003

Manas Kumar Mishra (II)

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 10-02-2004

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2004) 2 BLJR 1286 : (2004) 3 JCR 59

Hon'ble Judges : P.K. Balasubramanyan, C.J.; Amareshwar Sahay, J

Bench : Division Bench

Advocate : K.K. Jha, "Kamal", for the Appellant; Krishna Shankar, J.C. to A.G. and Nehala Sharmin, for the Respondent

Final Decision : Dismissed

Judgement

1. The appeal is filed by the writ petitioner. He filed the writ petition in this Court on 14.1.2003 praying for the issue of a writ of mandamus to punish the respondents, particularly, respondents 6, 7, 8 and 9 since they have illegally detained the petitioner in police custody without any valid order of remand and for directing the respondents to compensate the petitioner for his illegal detention for three days and physical assault by respondents 6 to 9 in the police lockup at Hazipur Police Station, District Vaishali in the State of Bihar after the Bihar Re-organisation Act, 2000. It is seen that on the day this writ petition was moved, a proceeding initiated on the basis of letter written by the uncle of the petitioner was pending in the High Court of Patna and it had been numbered as Cr. W.J.C. No. 44 of 2003. It is seen from the order in that writ petition subsequently passed that there was a complaint against the alleged illegal detention of the writ petitioner. When the writ petition filed in this Court was taken up on 24.3.2003, this Court took the view that since the matter was within the seisin of the Patna High Court, it would be appropriate to leave the petitioner to make whatever claims he has in respect of the alleged incident to be made in the High Court of Patna. This writ petition was dismissed also finding that the

claim for compensation was against officers in the State of Bihar, that the alleged assault took place within the State of Bihar, the alleged illegal confinement was also within the State of Bihar and therefore, this was a fit case where this Court should hold that it has no jurisdiction. Thus, the writ petition was rejected. This appeal is against that decision.

2. It is seen that on the same day, namely, 24.3.2003, the High Court of Patna closed Cr. W.J.C. No. 44 of 2003, taking note of the stand of the police that the writ petitioner was picked up for questioning and brought for interrogation on 24.12.2002, to Hazipur and that on 25.12.2002, he was handed over to his father, Mr. P.K. Mishra and the petitioner executed a bond undertaking to appear for further questioning as and when it was required and held that no further direction was necessary in the light of this position. Thus, the Court disposed of the case noting that nothing survives for consideration in that case.

3. It is argued by learned counsel for the appellant that the picking up for questioning, which, according to him was illegal arrest, was made from his house in Bundu in the District of Ranchi and that this Court had ample jurisdiction to award compensation for such illegal arrest. In the appeal, certain additional facts are sought to be projected including the scope of the pleas raised in the Patna High Court in Cr. W.J.C. No. 44 of 2003. It is seen on a scrutiny of the writ petition and the materials produced with it, on the basis of which the learned Single Judge acted, that some of the materials now sought to be relied on were not made available in the writ petition. That apart, the claim for compensation for ill treatment was against respondents 6 to 9 who are all seen to be officers in the Police Force in the State of Bihar. No claim for compensation was made as against the police officers in the State of Jharkhand. But before us, it was argued that it was the police officers of Jharkhand, who illegally arrested the petitioner from his residence in Bundu in the District of Ranchi and therefore, the cause of action arose within the jurisdiction of this Court. The petitioner was taken into custody at Bundu. What we find on a reading of the writ petition and the memorandum of appeal is a charge of illegal detention, if any, and ill treatment as against the officers of the Bihar Police Force inflicted in the State of Bihar and in the situation obtaining, the learned Single Judge could not be faulted for taking the view that it was for the appellant to approach the Court at Patna for relief, rather than this Court. On the materials put forward in the writ petition and sought to be supplemented in the Letters Patent Appeal, it cannot be said that the view so, taken by the learned Single Judge is erroneous or unjust. We are also of the view that the cause of action, if at all, arose within the State of Bihar and the jurisdiction to entertain any claim is with the Courts in the State of Bihar. Learned counsel relied on a Full Bench decision of Patna High Court in Syed Zafrul Hasan and Anr. v. State of Bihar 1986 PLJR 274 with particular reference to paragraphs 23 to 25 to contend that this Court alone had jurisdiction to entertain this petition. We do not see any thing in that decision to support his plea. 4. In the view as above, we do not think it necessary or proper to consider the contention of the appellant regarding the power of this Court exercising

jurisdiction under Article 226 of the Constitution of India to award compensation in an appropriate case. We leave open that question.

In view of our agreement with the learned Single Judge, we dismiss the appeal.