
(2002) 02 JH CK 0008

In the Jharkhand High Court

Case No : Writ Petition (Cr) No. 230 of 2001

Raju Pandey alias Rajeshwar Pandey

APPELLANT

Vs

State of Jharkhand and Another

RESPONDENT

Date of Decision : 19-02-2002

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2002) CRLJ 2316 : (2002) 0 AIR JHAR HCR 477 : (2002) 1 EastCriC 462 : (2002) JLJR 1 717 : (2002) CriLJ 2316

Hon'ble Judges : Vikramaditya Prasad, J

Bench : Single Bench

Advocate : A.K. Kashyap and Ravi Prakash, for the Appellant; Samim Akhtar, S.C. II, for the Respondent

Judgement

Vikramaditya Prasad, J.—This writ application under Article 226 of the Constitution of India has been filed for commanding the respondent No. 2 to release the petitioner forthwith on the basis of release order dated 31-10-2001 passed by the learned Chief Judicial Magistrate, Ranchi, in connection with Doranda (A) P.S. Case No. 181 of 2001.

2. It appears that the petitioner was an accused in the aforesaid case and he was granted bail by this Court in B.A. No. 7767 of 2001 vide order dated 17-10-2001. Consequently the release order was sent to the Jail Authority I.e. Birsa Munda Jail, Ranchi, for his release from the Jail and that release order was Issued on 31-10-2001, The Superintendent of Jail, (respondent No. 2) inspite of release order did not release the petitioner from the Jail on the ground that the petitioner was required to be produced in another case being Sadar (Town) Daltonganj P.S. Case No. 177 of 2001. Then it appears that Chief Judicial Magistrate, Palamau at Daltonganj had issued a production warrant for production of this accused in the aforesaid case pending at Daltonganj. The reminders were also issued by that Court vide order dated 6-11-2001, 13-11-2001, 29-11-2001, 10-12-2001 but the petitioner was not produced there.

The result was the case pending at Daltonganj used to be adjourned for his production, but till the date of filing of this writ i.e. till 19-12-2001 the petitioner had not been produced before the Daltonganj Court. Therefore, a prayer was made for a direction to the respondent No. 2, Superintendent of Jail (Birsamunda Jail, Ranchi) for release the petitioner from jail in compliance of the order dated 31-10-2001 passed by the learned Chief Judicial Magistrate, Ranchi with an alternative prayer to pass an order to produce the petitioner forthwith in the Court of the learned Chief Judicial Magistrate, Palamau at Daltonganj.

3. A counter-affidavit has been filed on behalf of the respondent No. 2 in which it has been pleaded that the order dated 31-10-2001 was somewhat incorrect and therefore, it was corrected and release order was obtained in the jail on 2-11-2001, but it is admitted that the petitioner was detained in jail because there was a production warrant against him from the Court of the learned Chief Judicial Magistrate, Daltonganj and he had to be detained for his production. In paragraph 9, it has been stated that several letters were written by the Superintendent of jail, respondent No. 2, for providing escorts and such letters were written on 2-11-2001, 11-11-2001, 19-11-2001, 27-11-2001, 4-12-2001, 10-12-2001, 14-12-2001, 23-12-2001, 29-12-2001, 3-1-2002, 7-1-2002, 11-1-2002 and 17-1-2002. But as the escorts party was not provided, so the petitioner could not be produced at Daltonganj Court and ultimately on 27-1-2002 the petitioner was sent to Daltonganj for his production before the Court.

4. Lower Court record from the Court of C.J.M., Palamau was called for and it was perused. It is found on perusal of the Lower Court records that the petitioner has been remanded in the aforesaid case, pending in Palamau at Daltonganj on 1-2-2002. The production means physical production before the Court and nobody can be detained in jail after a release order has been obtained in another case on the ground that he has to be produced in another Court and there is a production warrant against him. So the detention of the petitioner during the period between 2-11-2001 to 31-1-2002 is illegal.

5. Since the accused had already been remanded in another case, now as stated, the order for release of the accused in the case regarding Doranda (A) P.S. Case No. 181 of 2001 becomes infructuous and no order can, therefore, be passed. It is generally found that the accused are not being producing before the Court in time and in such cases as has been in this case, the detention became illegal. This is infringement of personal liberty to the citizens of country guaranteed under the Constitution. The State has to ensure that nobody is detained except according to the procedure of law. If the State fails in this responsibility then the State has to face consequences. It is not an isolated case but most of such cases come to the knowledge of this Court. It appears that Jail Superintendent respondent No. 2, had time without number, sent the remainders to the Superintendent of Police, Ranchi, for providing escort party but as the escort party was not provided, therefore, this situation has occurred. Apparently the

negligence lies on the part of Superintendent of Police, Ranchi. It is, therefore, directed that by way of compensation Rs. 1000/- be paid to the petitioner within a period of one month with an information to the Court by the State Government.

With the above direction and observation, this application is disposed of.