
(2011) 11 JH CK 0038

In the Jharkhand High Court

Case No : Writ Petition (Cr.) No. 323 of 2011

Rathindra Nath Bhattacharya

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 19-11-2011

Acts Referred:

Penal Code, 1860 (IPC) — Section 34, 365

Citation : (2011) 11 JH CK 0038

Hon'ble Judges : Prakash Tatia, J

Bench : Single Bench

Advocate : Pandey Pradip Nath Roy and Mr. Pandey Ashok Nath Roy, for the Appellant; Abhay Kumar Mishra, for the Respondent

Judgement

Prakash Tatia, C.J.—Petitioner alleged that his son Ranjan Bhattacharya is missing from 25.1.2010. He went to the Birsa Nagar Police Station for lodging a report of missing of his son but the officer-in-charge of the concerned police station advised him to come after two days. The petitioner thought that after two days he may get some knowledge about his son. The petitioner in his petition stated that in course of search, he got Information that his son, while going to his office on 25.1.2010 at about 10.30, was picked up by some unknown persons who came with Sumo Car, may be police personnel in civil dress. This information was given to the petitioner by local residents. Then, it has been stated that on 26.1.2010 at about 4.00 p.m., some police personnel came and searched the entire house of the petitioner without producing any search warrant. The petitioner then submitted that he again went to the Birsa Nagar Police Station on 26.1.2010 and informed the entire episode but the police personnel did not take any report nor they could tell him about the whereabouts of his son. The petitioner then submitted a written report before the Chief Judicial Magistrate, Jamshedpur categorically stating therein the entire facts with a prayer to call for a report from the Superintendent of Police as well as Birsa Nagar Police regarding illegal detention of his son. The Court below called for a report from the said police station. However, his son could not be found out. Then the petitioner

stated that the petitioner came to know from the newspaper report that on 31.1.2010, his son has been made accused in the case of murder of Dr. Prabhat and the petitioner was told by the people of his Mohalla that on 25.1.2010, his son was taken by the police while he was going to his office. On 29.1.2010, the petitioner submitted an application giving full details In the Court of Chief Judicial Magistrate, Jamshedpur wherein his petition was registered as Misc. Case No. 11 of 2010. On 9.2.2010, he gave application to Superintendent of Police, East Singhbhum at Jamshedpur giving detailed facts with a prayer to look into the matter and to trace out his son. That application of the petitioner was forwarded to TELCO (Birsa Nagar) Police Station for registering a case u/s 365/34, Indian Penal Code and thereafter a case No. 77 of 2010, dated 22.3.2010 u/s 365/34, Indian Penal Code was registered.

2. In the background of these facts and other facts, the petitioner approached this Court by filing the instant writ petition on 23.6.2010. On 16.9.2011, this Court passed the order giving opportunity to the Director General of Police, Jharkhand, Ranchi to look into the matter and trace out the petitioner's son and make it clear that if he is involved in any criminal case, even then it is the duty of the State to trace out not only all the citizens but also the accused persons and directed to produce the son of the petitioner before this Court on 18th October, 2011. Then, on 21.10.2011, this Court has shown its concern with the safety of the petitioner's son and directed the Superintendent of Police of the concerned area to remain present in Court in case the son of the petitioner is not traced out.

3. Today, in compliance of the said order, the Superintendent of Police, Jamshedpur is present in Court along with his counsel.

4. Learned counsel for the State vehemently submitted that the State is making all efforts to search out the petitioner's son. He pointed out that subsequently, the petitioner developed a story that police personnel took away his son whereas initially he never made such allegation. Learned counsel for the State also submitted that immediately after receipt of the report from the petitioner, it was recorded in the Station-Diary of the Birsa Nagar Police Station and the State through its all agencies, making all efforts to search out the petitioner's son.

5. In this case, initially lodging of only a report of missing person by the petitioner will not support the case of the respondent-State in any manner because of the reason that the petitioner had no personal knowledge as to why and how his son was missing or was taken away. However, if the petitioner gathered the information from any source that his son may be taken away by the police and thereafter he has not been traced out, then that apprehension can not be said to be absolutely false simply because of the fact that on the first Instance, the petitioner did not mention that his son may have been taken away by the police personnel. It is also irrelevant stand taken by the State that the petition was taken after some delay from the time of the missing of the petitioner's son or giving report by him to the police.

6. Learned counsel for the State also submitted that petitioner's son, who is missing, is accused in three criminal cases and warrant of arrest has been issued against him and therefore, he may be, in fact, absconding and avoiding his identity so as to even find out by any body and that may be hindering the progress of searching out the petitioner's son. It is also submitted that apprehending arrest in criminal cases, he may be hiding somewhere so that he may not come to the knowledge and notice of the police.

7. Be that as it may, there are serious allegations levelled by the writ petitioner against the State police and admittedly, the son of the petitioner namely Ranjan Bhattacharya, is said to be accused in three criminal cases wherein warrant of arrest has been issued. Therefore, it may not be fruitful to keep the matter pending with the State-police and there (sic) reason for handing over the matter for investigation to Central Bureau of Investigation in regard to TELCO (Birsa Nagar) Police Station case No. 77 of 2010, dated 22.3.2010, District:East Singhbhum.

8. In view of the above, the learned counsel for the petitioner submits that nothing survives in this writ petition. Therefore, this writ petition is disposed of with the aforesaid direction.