

(1999) 12 SC CK 0002

In the Supreme Court Of India

Case No : Criminal M.P. No's. 4201 of 1997, 4105 of 1999, 2600 and 2601 of 2000 in Writ Petition (Criminal) No. 539/86 and 592/87

Shri Dilip K. Basu

APPELLANT

Vs

State of West Bengal and Others

RESPONDENT

Date of Decision : 10-12-1999

Acts Referred:

Penal Code, 1860 (IPC) — Section 201, 302

Citation : (1998) 1 BLJR 161 : (1999) 10 JT 334 : (2003) 4 SCALE 88 : (2000) 5 SCALE 353 : (1999) 7 SCALE 614

Hon'ble Judges : A. S. Anand, C.J.; S. Rajendra Babu, J; N. Santosh Hegde, J

Bench : Full Bench

Final Decision : Disposed Of

Judgement

Crl. M.P. No. 2600/2000

1. Learned Amicus had filed a petition during the monitoring of this case, on 19th April, 2000, drawing our attention to certain reports which had appeared in the Indian Express, New Delhi edition dated 13th and 14th October, 1999.
2. Learned Counsel for the State of Andhra Pradesh accepted notice and was granted three weeks' time to file an affidavit of response to the allegations contained in the said newspaper reports dated 13/14th October, 1999.
3. A counter affidavit has now been filed by Shri Vinayak Prabhakar Apte, Superintendent of Police, Warangal District in this Court on 17th July, 2000. The explanation has been given in respect of each of the persons referred to in the newspaper report.
4. It is stated that in respect of the death of Bonagani Srisailain, Pallcpu Lingaiah and Kore Devender, as early as on 1 1.10.1998, District Magistrate had ordered a Magisterial enquiry after which the Government of Andhra Pradesh, taking note of various allegations leveled by Andhra Pradesh Civil Liberties Committee and other organizations, appointed a Commission of Enquiry to enquire into the death

of the three persons named above. It is stated in the affidavit that the Commission of Enquiry has submitted its report. It is, however, not disclosed in the affidavit as to when that report was submitted. Copy of that report has also not been filed. Even copy of the report of the Magisterial Enquiry and the Post-Mortem reports have not been placed on record of this Court. Mr. Prabhakar, learned Counsel appearing for the State of Andhra Pradesh, is directed to produce copies of the reports and all other relevant documents, supported by an affidavit of a competent officer, within four weeks.

5. With regard to the allegations of custodial death of Chityala Sudhakar at Hasanparthy P.S., it is stated in the affidavit of Shri Apte that the Collector and District Magistrate had ordered a Magisterial Enquiry into the matter and the enquiry is still pending and that the case is also under investigation. We would like to be informed of the result of that enquiry as also the stage of the investigation by the next date.

6. With regard to the death of Manupati Rajakumar, again allegedly, while in police custody at Hanamkonda Police Station, it is stated that the Sub-Divisional Magistrate, Warangal had conducted inquest proceedings and Post-Mortem had also been conducted by a team of Doctors. It is stated that during investigations, it was established that the deceased, who had been arrested and was in police custody, died as a result of suffering multiple injuries. According to the affidavit of Shri Apte, Constables K. Purushotham Reddy and Ravinder Kumar of Hanamkonda Police Station were prima-facie found to be responsible for causing those injuries to the deceased while in their custody. It is stated that after investigation, the matter has been reported to the Court. In the affidavit, however, there is no indication, as to what has happened thereafter in the Court. The Magisterial Enquiry, which had been ordered by the District Magistrate, is stated to be still pending. Mr. Prabhakar undertakes to inform the Court about this case by the next date.

7. With regard to the death of G. Chandra Mouli in Central Prison, Warangal, it is stated in the affidavit of Shri Apte that the District Magistrate had ordered a Magisterial Enquiry into the incident and his report is awaited.

8. The deaths of the above named persons in custody allegedly took place, as early as in 1998. Despite directions given by this Court in D.K. Basu's case, we find that appropriate steps have not been taken by the State to investigate into custodial deaths. Before we proceed further, we would like Mr. Prabhakar to place on record various documents, including the Post Mortem report, report of Magisterial Enquiry as well as the report of Enquiry Commission for perusal of the Court, supported by an affidavit of the Inspector General of Police. It shall be particularly explained as to why so much delay has occurred in conducting even the Magisterial Enquiries. Four weeks' time, as prayed for, is granted to Mr. Prabhakar.

9. The matter shall be listed after five weeks on a date to be fixed in consultation

with the learned Amicus.

10. Our attention has been drawn by learned Amicus today to two reports which have appeared in 'The Hindu', dated 16th June, 2000 and 16th July, 2000. Both these reports allege custodial deaths in Andhra Pradesh. While the report of June 16, 2000 refers to death of two persons in police custody, the report of July 16, 2000 refers to death of one person while in police custody. Copies of the reports have been furnished to Mr. Prabhakar in Court today. He seeks time to verify and file response to the allegations contained in these two reports on the affidavit of a responsible officer by the next date. Let the needful be done in four weeks.

CRL. M.P. No. 2601/2000.

11. We have perused the affidavit filed by Shri Y.K. Pachauri, Superintendent of Police, District Pilibhit, U.P. From a perusal of the affidavit, it appears that in connection with the alleged death in custody of Dilshad, a case came to be registered by the police, being Crime No. 152 of 1999, for offences under Sections 302/201 IPC against some police officials including the then Station House Officer, Police Station Jehanabad on 27.5.1999. It is also stated in the affidavit that investigation of the case was subsequently transferred to the Crime Branch of C.I.D., U.P. and that the investigation is in progress. This affidavit was filed on 3.5.2000.

12. Learned Counsel for the State of U.P. is directed to place on record, on an affidavit, the present stage/status of the investigation. He shall also produce case diaries and disclose on affidavit whether any one has been arrested during the investigation of the case and if so, who and when. Copy of the report of Magisterial Enquiry as also a copy of Post-Mortem report shall be produced by the next date. Necessary information shall be furnished on the affidavit of Inspector General of Police. Learned Counsel prays for four weeks time. We grant the prayer.

13. Post after five weeks for further orders.

14. The date shall be fixed in consultation with the learned Amicus.