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The Courts on Its Own Motion Vs. The State of Jharkhand

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Court : Jharkhand

Decided On : Dec-18-2017

Appellant : The Courts on Its Own Motion

Respondent : The State of Jharkhand

Judgement :

IN THE HIGH COURT OF JHARKHAND AT RANCHI W.P. (Cr.) No. 267 of 2013 --- Court on its own motion --- ---- Petitioner Versus The State of Jharkhand --- --- Respondent --- CORAM:The Honble Mr. Justice Aparesh Kumar Singh The Hon'ble Mr. Justice B.B. Mangalmurti For the Petitioner: None For the Resp - State: Mr. Pankaj Kumar, A.P.P. --- 25/ 18.12.2017 No one appears for the petitioner. However, learned A.P.P. for the State is present.

2. We find from the pleadings on record that this criminal writ petition was registered on the basis of a letter written by one Gulacho Devi of village Hematpur Panchayat Sasokala, P.S. Gola, District - Ramgarh addressed to Hon'ble the Chief Justice of this Court alleging that her husband Ramjit Mahatha had gone on being called on phone and has never returned. This Court appointed learned Advocate Mrs. Nisha Thakur as Amicus Curiae to assist the Court and directed the Advocate General of the Respondent State for furnishing instruction by order dated 26.11.2013. Case was adjourned on a number of dates thereafter. Show-cause / affidavit was filed by the investigating agency as taken note of in the order dated 27.01.2015 and 03.03.2015 as well, which reveal the steps being taken by the Investigating Officer to locate Ramjit Mahatha. Being dissatisfied with the lack of

response of State authorities, on 15.06.2016, the Superintendent of Police, Ramgarh and Officer-in-Charge, Gola Police Station, Ramgarh were directed to remain physically present and apprise about the latest status of the missing husband of Gulacho Devi. On their appearance on 18.07.2016, learned A.P.P. for the State was asked to file a detailed counter affidavit with regard to up-to-date investigation. We noticed from the supplementary affidavit of the Respondents on 31.07.2017 that the investigation had not reached to a final conclusion. One Samu Thakur who was allegedly last seen with the victim, was not apprehended. Charge sheet was filed against Nirmal Mahto. Superintendent of Police, Ramgarh was directed to pursue the leads in the investigation and to apprehend the accused person and also submit a report about the status of Ramjit Mahatha. We also made it clear that if investigation does not reach to a finality, one way or the other, the Superintendent of Police, Ramgarh may be summoned to appear and explain. On 11.09.2017, certain development were brought to our notice by the learned A.P.P. Mr. Pankaj Kumar relating to the investigation. The order dated 11.09.2017 is reproduced hereunder: Learned counsel for the State Mr. Pankaj Kumar submits that 2. investigation has made substantial progress after the previous order passed by this Court on 31.07.2017. One accused Shamu Thakur has been apprehended by the raiding team under the leadership of Superintendent of Police, Ramgarh from his house in West Bengal. They have also arrested one Abhimanyu Singh and Lambu Mahto @ Kaviraj Mahto. All the three accused persons have disclosed that Ramjeet Mahatha was killed at Duarsaini Hills on 31.08.2012. The place of occurrence was thereafter inspected. It has come during investigation that Lambu Mahto and Abhimanyu Singh disclosed that they along with one Rakesh Mahto had brought Ramjeet Mahatha at the said hills after administering wine and due to dispute of money, Rakesh Mahto strangulated him and while returning, hammered with a big stone on his head. However, no residue of the deceased was found there at the time of inspection.

2. Learned counsel for the State submits that steps have been taken for apprehending Rakesh Mahto who is lodged in another jail. Therefore, production warrant has been obtained from the Court of Judicial Magistrate, 1st Class, Ramgarh. Statement of Shamu Thakur has also been recorded under section 164 of Code of Criminal Procedure where he has reiterated the entire manner of

occurrence. During the investigation, it has come that Ramjeet Mahatha has been killed by Rakesh Mahto, Lambu Mahto and Gendu Mahto on 31.08.2012 itself. Gendu Mahto is now dead. The Investigating Officer has taken steps for police remand of the accused Rakesh Mahto. Investigation is likely to come to its logical conclusion very soon.

3. In view of the latest progress report filed by the Investigating Agency, we adjourn the matter for further four weeks to come out with final status report in this regard.

4. List it accordingly.

3. Thereafter, status report has been filed by the Respondents on 14.12.2017. Materials found during the investigation, as recorded in the supplementary case diary, show that the accused Rakesh Mahto has been examined after permission from the learned court below where he was lodged in Ramgarh Jail. In his exculpatory statement, he has stated that Ramjeet Mahtha had been killed by Gautam Mahto @ Gendu Mahto (now dead), Nirmal Mahto, Lambu Mahto, Abhimanyu Singh and his associates. He also stated that Ramjit was killed for consideration amount received for selling the girl outside. He also narrated that he tried to sell the motorcycle of the deceased to Nitesh kumar and Baidhnath Gope, but they did not purchase the motorcycle for want of paper. The statements of Baidyanath Gope and Nitesh Kumar were recorded at para-230 and 231 of the supplementary case diary. According to them, said motorcycle could not be purchased as he was asking for heavy amount and did not provide papers. They reiterated their statements under section 164 of the Cr. P.C. Also. Charge sheet had earlier been submitted against Nirmal Mahto bearing no. 110/2016 on 12.11.2016 and investigation was kept pending against Samu Thakur. Subsequently, on apprehension of Samu Thakur and on his disclosure, the fact about the involvement of Lambu Mahto, Rakesh Mahto, Gautam @ Gandu Mahto and Abhimanyu Singh had come. Thereafter, Samu Thakur, Lambu Mahto and 3. Abhimanyu Singh were arrested and remanded on 7.08.2017. On 06.10.2017 accused Rakesh Mahto was remanded in the present case from Bokaro City P.S. Case No. 77/2016. Statement of Samu Thakur has been recorded under section

164 Cr. P.C as an approver. During the investigation, it has come that the aforesaid accused had killed the deceased Ramjit Mahatha at Durashini Hill and the residue of the body could not be found due to lapse of considerable time. Due to death of Gendu Mahto, motorcycle of the deceased could not be found. After thorough investigation showing Gendu Mahto as dead, supplementary charges sheet has been submitted against the accused Lambu Mahto, Samu Thakur, Abhimanyu Singh and Rakesh Mahto under sections 364/302/379/34 of the Indian Penal Code vide supplementary charge sheet no. 105/17 dated 24.11.2017.

4. Learned A.P.P. Mr. Pankaj Kumar submits that the investigation is complete. As per the final report submitted by the police, Ramjit Mahatha, husband of the lady Golacho Devi have been found dead but the dead body could not be recovered due to long lapse of time. He submits that this writ petition can be disposed of as recovery of the person Ramjit Mahatha is no longer possible in view of the aforesaid circumstances. The petition seeking writ of habeas corpus has become infructuous.

5. On consideration of the entire material facts narrated herein-above, we are also satisfied that on conclusion reached by the investigating agency about the death of Ramjit Mahatha, husband of the lady Gulacho Devi, the instant petition seeking issuance of writ of habeas corpus for his recovery has become infructuous. Accordingly, writ petition is disposed of as infructuous. (Aparesh Kumar Singh, J) (B.B. Mangalmurti, J) Ranjeet/

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