

Lussa Pahan Vs. the State of Jharkhand

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Court : Jharkhand

Decided On : Nov-27-2014

Appellant : Lussa Pahan

Respondent : The State of Jharkhand

Judgement :

IN THE HIGH COURT OF JHARKHAND AT RANCHI I.A. No. 3544 of 2014 In Cr. Appeal (DB) No. 482 of 2014 With I.A. No. 3632 of 2014 In Cr. Appeal (DB) No. 487 of 2014 With I.A. No. 4049 of 2014 In Cr. Appeal (DB) No. 490 of 2014 With I.A. No. 3679 of 2014 In Cr. Appeal (DB) No. 496 of 2014 With I.A. No. 3904 of 2014 In Cr. Appeal (DB) No. 499 of 2014 With I.A. No. 3684 of 2014 In Cr. Appeal (DB) No. 504 of 2014 With I.A. No. 3905 of 2014 In Cr. Appeal (DB) No. 505 of 2014 With I.A. No. 5892 of 2014 In Cr. Appeal (DB) No. 536 of 2014 With I.A. No. 3929 of 2014 In Cr. Appeal (DB) No. 544 of 2014 With I.A. No. 4039 of 2014 In Cr. Appeal (DB) No. 554 of 2014 With I.A. No. 4041 of 2014 In Cr. Appeal (DB) No. 556 of 2014 With I.A. No. 4108 of 2014 In Cr. Appeal (DB) No. 562 of 2014 With I.A. No. 5464 of 2014 In Cr. Appeal (DB) No. 728 of 2014 ----- Rajan Bouri ..Appellant in Cr. Appeal (DB) No. 482/2014 Dilip Soren Appellant in Cr. Appeal (DB) No. 487/2014 -2- Ahmad Ansari @ LalaAppellant in Cr. Appeal (DB) No. 490/2014 Sufal Hembrom @ Matal HembromAppellant in Cr. Appeal (DB) No. 496/2014 Prakash BhuiyanAppellant in Cr. Appeal (DB) No. 499/2014 Bandhan Tirky @ Baudhna Tirky &Anr Appellants in Cr. Appeal (DB) No. 504/2014 Lussa Pahan Appellant in Cr. Appeal (DB) No. 505/2014 Soren

Murmu @ Saran Murmu Appellant in Cr. Appeal (DB) No. 536/2014 Mahadeo Yadav Appellant in Cr. Appeal (DB) No. 544/2014 Ahmad Ansari @ Lala Appellant in Cr. Appeal (DB) No. 554/2014 Shankar RaiAppellant in Cr. Appeal (DB) No. 556/2014 Md. Shakil & Anr.Appellants in Cr. Appeal (DB) No. 562/2014 Togo Samad Appellant in Cr. Appeal (DB) No. 728/2014 Versus The State of Jharkhand .Respondents in all the cases ----- Coram: HONBLE MR. JUSTICE D.N. PATEL HON'BLE MR JUSTICE RONGON MUKHOPADHYAY ----- For the Appellants : M/s. Bhola Nath Rajak, Durga C Mishra, Ajit Kumar, Rajiv Anand, Amresh Kumar, Anjani Kumar, C. Prabha, Arun Kumar, Bhola Nath Rajak, Rajesh Kumar Mahtha, Rajiv Anand, Sanjay Kumar Pandey, Jai Shankar Tripathy, Advocates in seriatum For the State : APPs. ----- 02/Dated:

27. h November, 2014 Per D.N. Patel, J1 In the aforesaid interlocutory applications preferred in criminal appeals, it appears that there is a long delay in preferring the criminal appeals. In some cases, it is more than 5 years, 6 years or 7 years. This cannot be tolerated at any cost.

2. It appears that the State Authorities are turning a deaf ear to the orders passed by this Hon'ble Court giving enough adequate and sufficient guidance and they are as under:- (a) Order dated 6th March, 2013 in I.A. No. 1105 of 2013 in Cr. Appeal (DB) No. 1088 of 2012, especially paragraphs 3, 4, 5 & 6 thereof -3- (b) Order dated 10th February, 2014 in Cr. Appeal (DB) No. 465 of 2013 especially Paragraph Nos. 8, 9, 10 and 11 thereof, still there are several other orders, in which we have given directions to the Superintendents of Jail in the State of Jharkhand that they are in Loco Parentis to the position. After reasonable time of the limitation period to prefer an appeal after conviction, it is the duty of the Superintendent of concerned Jail to inform either the District Legal Services Authority or Jharkhand State Legal Services Authority or at least Legal Aid Clinic, which are opened in each and every districts of State of Jharkhand. More than one dozen orders have been passed reiterating this aspect of the matter but it appears that lethargic approach of the Superintendents as yet remained as it was and in the aforesaid applications, the following is the delay:- SL No. I.A. No. Delay Jail 1 I.A. No. 4049 of 2186 days Hazaribagh 2014 In Cr. Appeal (DB) No. 490 of 2014 2 I.A. No. 3679 of 4081 days Dumka 2014 In Cr. Appeal (DB) No. 496 of 2014 3 I.A.

No. 3929 of 4996 days Hazaribagh 2014 In Cr. Appeal (DB) No. 544 of 2014 4 I.A. No. 4039 of 2211 days Hazaribagh 2014 in Cr. Appeal (DB) No. 554 of 2014 5 I.A. No. 3632 of 1765 days Dumka 2014 In Cr. Appeal (DB) No. 487 of 2014 6 I.A. No. 3544 of 1171 days Hazaribagh 2014 in Cr. Appeal No. 482 of 2014 7 I.A. No. 3904 of 959 days Hazaribagh 2014 in Cr. Appeal (DB) No. 499 of 2014 8 I.A. No. 3684 of 645 days Jamshedpur 2014 in Cr. Appeal (DB) No.504 of 2014 9 I.A. No. 3905 of 844 days Ranchi 2014 in Cr. Appeal (DB) No. 505 of 2014 10 I.A. No. 5892 of 1620 days Dumka 2014 in Cr. Appeal (DB) No. 536 of 2014 11 I.A. No. 4041 of 470 days Hazaribagh 2014 in Cr. Appeal (DB) No. 556 of 2014 12 I.A. No. 4108 of 708 days Dumka 2014 in Cr. Appeal (DB) No. 562 of 2014 13 I.A. No. 5464 of 569 days Jamshedpur 2014 in Cr. Appeal (DB) No. 728 of 2014 3. We have also passed several orders in which we have given Email addresses of the District Legal Services Authority of all 22 districts of the State so that from jail at least Email can be sent, after reasonable period from completion of the limitation, to prefer an appeal to the District Legal Services Authority and immediately the appeal can be preferred by providing legal aid. This direction has not been followed by the Superintendent of aforesaid jails.

4. The Superintendent of the concerned Jails should never wait for (a) Certified copy of the judgment of the trial court in Sessions Trial. (b) Copies of the evidences led before the Sessions Court or before the trial court. (c) Any application to be preferred by the convict to the Superintendent.

5. The only thing to be done by the Superintendent of Jail in the -5- State of Jharkhand is to waive the limitation period to prefer an appeal after conviction and once that reasonable period after the limitation to prefer appeal is over, it shall be the duty of the Superintendent of Jail in the State of Jharkhand to inform either (a) Jharkhand State Legal Services Authority 'or' (b) District Legal Services Authority 'or' (c) Legal Aid Clinic, which is opened in each and every Jails of the State of Jharkhand or Registrar General of the High Court of Jharkhand.

6. This direction has also been given in our previous order but it appears that the Superintendents of Jail are not performing their duties, which we have pointed out in our earlier order and therefore there is a delay of several months and years as

stated herein above. Therefore, it is now high time to initiate departmental actions against them.

7. We, therefore, direct (a) the Secretary (Home) (b) I.G. (Prison) (c) or such other high ranking authority of the State to initiate departmental actions against the erring Superintendents of Jails because of whose lethargic approach, the aforesaid delay has been caused.

8. In our order dated 4th July, 2013 in I.A. No. 974 of 2013 in Criminal Appeal (DB) No. 104 of 2013, we have given enough guidance to the Superintendents of Central Jails and para 4 thereof reads as under:- "4. To avoid this delay, we hereby direct : (a) All the Superintendents of the Central Jails as well as Heads of other Jails of the State of Jharkhand shall intimate to the Jharkhand State Legal Service Authorities for the demand of legal aid of any convict/under-trial prisoner by email address of Jharkhand State Legal Services Authority. The email address of Jharkhand State Legal Services Authority is as jhalsaranchi@gmail.com (b) We also direct all the Superintendents of Central Jail as well Heads of other Jails of the State of Jharkhand that no sooner did they receive any demand from the convict/under-trial prisoner for getting legal aid for preferring any bail application, Writ petition, criminal appeal, Criminal Miscellaneous Petition or such other proceedings to be filed in any competent Court of State of Jharkhand, they shall immediately intimate to the Jharkhand High Court Legal Services Committee whose email address is hclsc_ranchi@yahoo.com (c) We also direct all the Superintendents of -6- Central Jails and Heads of other Jails of the State of Jharkhand to intimate the demand of legal aid by any convict/under-trial prisoner to the District Legal Services Authorities, whose email addresses are : Sl.No.

District	Email Address	Sl.No.
Bokaro	dlsabokaro@gmail.com	1
Chaibasa	dlsachaibasa@gmail.com	2
Chatra	dlsachatra@gmail.com	3
Deoghar	deoghardlsa@gmail.com	4
Dhanbad	dlsa.dhanbad@gmail.com	5
Dumka	dlsadumka@gmail.com	6
Garhwa	dlsagarhwa@gmail.com	7
Giridih	dlsagiridih@gmail.com	8
Godda	dlsagodda@gmail.com	9
Gumla	dlsagml38@gmail.com	10
Hazaribagh	dlsahazaribagh@gmail.com	11
Jamshedpur	jamshedpurdlsa@gmail.com	12
Jamtara	dlsajamtara@gmail.com	13
Koderma	dlsakoderma@gmail.com	14
Latehar	dlsalatehar@gmail.com	15
		16

Lohardagga dlsalohardaga@gmail.com 17 Pakur pakurdlsa@gmail.com 18
Palamau dlsapalamu123@gmail.com 19 Ranchi dlsaranchi@gmail.com 20
Sahibganj dlsasahibganj@gmail.com 21 Saraikella
dlsasaraikellakharswan@gmail.com 22 Simdega dlsasimdega@gmail.com (d)
Secretaries of District Legal Services Authorities shall get their email verified on
day to day basis either by themselves or through legal retainer or through para-
legal volunteers appointed at Legal Services Authorities. (e) It shall be duty of the
Secretaries, District Legal Services Authorities as well as Jharkhand State Legal
Services Authorities at Ranchi to bring to the notice of the concerned authority to
provide legal aid either through lawyer or otherwise to the convict or under trial-
prisoner so that they may institute proper proceedings before the proper forum and
quickly justice may be done to the convict or under trial prisoner. (f) Registry is
directed to intimate this order to the Secretary, Jharkhand State Legal Services
Authority as well as to all the Superintendents of Central Jails and Heads of other
Jails of the State of Jharkhand as well as to the Secretaries of the District Legal -7-
Services Authorities within the State of Jharkhand as well as to the Secretary of
the Home Department, State of Jharkhand and I.G. (Prison), State of Jharkhand.

9. Copy of this order will be sent to : (i) Secretary, Department of Home, Govt. of
Jharkhand, Ranchi (ii) Inspector General (Prison), Govt. of Jharkhand, Ranchi (iii)
Registrar General, High Court of Jharkhand, Ranchi (iv) Judicial Commissioner,
Ranchi (v) Principal District Judges of all the Districts (vi) Secretary, Jharkhand
Legal Services Authority, Ranchi (vii) Secretary, High Court Legal Services
Committee, Ranchi (viii) Secretaries of all the District Legal Services Authorities
(ix) Superintendents of all the Jails of the State of Jharkhand 10. We also direct
the Registrar General of this Court to supply a copy of this order as well as the
copy of the order dated 4th July, 2013, passed in I.A. No. 974 of 2013 in Cr.
Appeal (DB) No. 104 of 2013, order dated 6th March, 2013, passed in I.A. No.
1105 of 2013 in Cr. Appeal (DB) No. 1088 of 2012 and order dated 10th February,
2014 passed in Cr. Appeal (DB) No. 465 of 2013, to the Chief Secretary,
Government of Jharkhand, Ranchi and Director General of Police, Government of
Jharkhand, Ranchi.

11. Counsel for the State is seeking time to file reply of the Superintendents of the aforesaid Jails and also the affidavit of either Secretary of Home Department or of I.G. Prison that what action they are contemplating to be initiated against Superintendents of the Jails, at whose behest this delay has been occurred.

12. These matters are adjourned to be listed on 17th December, 2014.

13. Let two copies of the order be given to learned APP. (D.N. Patel, J.) (Rongon Mukhopadhyay, J) Rakesh/

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