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Phoolmani Guria Vs. The State of Jharkhand and Ors

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Court : Jharkhand

Decided On : Aug-12-2015

Appellant : Phoolmani Guria

Respondent : The State of Jharkhand and Ors

Advocate for Pet/Ap. : Mr. Sanga

Judgement :

1 IN THE HIGH COURT OF JHARKHAND AT RANCHI W.P. H.B.(Cr.) No. 441 of 2015 Phoolmani Guria, wife of Barahil Guria, resident of village Kaled, P.O.-Dumangdiri, P.S. Torpa, District-Khunti, Jharkhand ... Petitioner -Versus- 1. The State of Jharkhand; 2. Director General of Police, Police Head Quarter, P.O.-Dhurwa, P.S. Dhurwa, District -Ranchi, Jharkhand; 3. Deputy Commissioner, Khunti, P.O.-Khunti, P.S. -Khunti, District-Khunti, Jharkhand; 4. Superintendent of Police, Khunti, P.O.-Khunti, P.S. -Khunti, District-Khunti, Jharkhand; 5. Deputy Superintendent of Police, Khunti, P.O.-Khunti, P.S. -Khunti, District- Khunti, Jharkhand; 6. Sub-Divisional Officer, Khunti, P.O.-Khunti, P.S. -Khunti, District-Khunti, Jharkhand; 7. District Social Welfare Officer, Khunti, P.O.-Khunti, P.S. -Khunti, District- Khunti, Jharkhand; 8. Officer-in-charge, Khunti, P.O.-Khunti, P.S. -Khunti, District-Khunti, Jharkhand; 9. Officer-in-charge, Torpa, P.O.-Torpa, P.S. -Torpa, District-Khunti, Jharkhand; 10. Chairman, Child Welfare Committee, Khunti, P.O.-Khunti, P.S. -Khunti, District-Khunti, Jharkhand; 11. Officer-in-Charge, Anti Human Trafficking Cell, Khunti, P.O.-Khunti, P.S. - Khunti, District-Khunti, Jharkhand; 12. Devendra Bhushan Singh, son of not known to the petitioner,

D.D.C. Khunti, P.O.-Khunti, P.S. -Khunti, District-Khunti, Jharkhand. ...Respondents ------ CORAM: HONBLE MR. JUSTICE VIRENDER SINGH, CHIEF JUSTICE HON'BLE MR. JUSTICE P.P BHATT ----- For the Petitioner : Mr. J.J.

Sanga, Advocate For the Respondents : Mr. R.R. Misra, G.P.-II. ----- th 03/Dated:

12. August, 2015 Per Virender Singh, C.J.

1. Heard Mr. Jorang Jedan Sanga, learned counsel appearing on behalf of the petitioner as well as Mr. R.R. Mishra, learned G.P.-II appearing on behalf of the State.

2. This order be read in continuation of our last order dated 06.08.2015 pursuant to which, a supplementary counter affidavit has been filed on behalf of respondent Nos. 2 & 4. Certain photographs depicting that the victim (name not being disclosed) is presently staying at Sahyog village are also annexed thereto. 2 3. Mr. Mishra states that the affidavit filed by the petitioner, who claims herself to be the mother of the victim, is not factually correct. In short, Mr. Mishra wants to state that the Court has been misled by the petitioner. He submitted that, in fact, before preparing the affidavit on 30.07.2015 for the purposes of filing the instant petition, which was filed on 31.07.2015, the petitioner had met the victim at Sahyog village twice; once on 20.07.2015 and then on 29.07.2015. At both the occasions, she had obtained the permission of Child Welfare Committee (C.W.C.). Mr. Mishra submitted that as per the averments made in the instant petition, it appears that till the preparation of the affidavit (30.07.2015), the petitioner was not aware of the whereabouts of her daughter.

4. Learned counsel submitted that the vakalatnama, which bears the signature of the petitioner, is dated 29.07.2015, therefore, before handing over the vakalatanama to her counsel, she must have disclosed all the facts to the learned counsel. Mr. Mishra states that not only in the aforesaid factual backdrop, the instant petition, which has been styled as Habeas Corpus merits dismissal, some legal action is required to be taken against the petitioner.

5. Mr. Mishra further states that so far as investigation of the case bearing Khunti P.S. Case No. 121 of 2015 under Section 354-A/354-B/509 of the Indian Penal Code and Section 12 of the POSCO Act, 2012, is concerned, the statement of the victim has already been recorded by the concerned police official under Section 164 of the Cr.P.C. and according to the statement of the victim, the allegations leveled against respondent No. 12, Deputy Development Commissioner (D.D.C.), Khunti turn out to be of very grave in nature. He submitted that the concerned I.O. has already obtained the warrants of arrest qua the D.D.C., Khunti on 10.08.2015 but till date, he has not been arrested 3 despite vigorous efforts attempted by the prosecution agency.

6. Mr. Mishra states that another fact, which has also come to the notice of the investigating agency that the petitioner happens to be the step mother of the victim and at one stage, victim also stated that the petitioner is illtreating her. In vernacular it is stated Meri Mata ka dehant ho gaya tha aur Pita dusari shadi kiye. Sauteli Maa Dulli ko marti thi tatha vyavahar bhi thik nahi tha. Ek din gaon ka ek dalal Dulli ko kam dilane ke liye Dilli le gaya woha Dilli me ise ek agency ke madhyam se ek kothi me kaam par laga diya gaya. Kothi me iska shoshan kiya gaya, khana nahi diya jata tha tatha mara jata tha aur hamesa gali diya jata tha. Mr. Mishra states that this aspect has also some relevance with the incident happened in the office of the D.D.C., Khunti for the reason that when the concerned official made an attempt to molest the victim in his office only, the petitioner came out of the room alongwith Anganbari Worker. According to Mr. Mishra, this aspect also requires to be investigated by the investigating agency.

7. On specific query put to Mr. Mishra, whether respondent No.12 has been placed under suspension till date or not, he states that he wanted to have latest information in this regard from the Secretary, Personnel, Administrative Reforms and Rajbhasa Department (Government of Jharkhand), but, it appears that the concerned official is involved into Deoghar incident, which has recently happened on 10.08.2015 (Monday). He states that required departmental action shall be taken without any waste of time against respondent No.12. In short, Mr. Mishra wants to apprise the Court that no laxity shall be shown on any count and that the Court will be apprised of the latest status of the investigation of the criminal case

as well as the action, if any, taken against the erring Officer by the State.

8. In the aforesaid factual backdrop, the instant Habeas Corpus Petition, in 4 any case, deserves to be dismissed. Ordered accordingly. However, this is a case, which calls for taking appropriate legal action against the petitioner Phoolmani Guria for misleading the Court and filing a false affidavit. Let show cause notice be issued to the petitioner Phoolmani Guria as to why, Contempt Proceedings be not initiated against her for filing false affidavit on facts and misleading the Court, returnable within a weeks time only.

9. Mr. Sanga, accepts notice on behalf of the petitioner and states that he may be given some time to file a detailed response in this regard.

10. Granted. List again on 26.08.2015.

11. Registry is directed to diarise the contempt petition by allotting it regular number.

12. Name of Mr. Mishra shall also be indicated in the cause list for rendering required assistance to the Court.

13. Copy of the order shall be provided to Mr. Sanga appearing for the petitioner-contemnor and Mr. Mishra, learned State counsel under the seal and signature of the Court Master today itself. (Virender Singh, C.J.) (P.P. Bhatt, J.) Brajesh/LAK

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