

Gourhari Das and anr. Vs. the State (Central Bureau of Investigation)

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Court : Delhi

Decided On : Nov-23-1994

Reported in : 1994IVAD(Delhi)942; 56(1994)DLT670; 1994(31)DRJ648

Judge : Jaspal Singh, J.

Acts : [Code of Criminal Procedure \(CrPC\) , 1973](#) - Sections 439

Appeal No. : Criminal Miscellaneous (Main) Appeal No. 2680 of 1994

Appellant : Gourhari Das and anr.

Respondent : The State (Central Bureau of Investigation)

Advocate for Pet/Ap. : D.C. Mathur,; A.C. Pradhan and; S. Lal, Advs

Judgement :

Jaspal Singh, J.

(1) At the instance of the Registrar General of the Supreme Court of India, the Central Bureau of Investigation registered a case under section 120B read with sections 417, 419, 468 and 471 of the Indian Penal Code. The petitioners who have been arrested in the said case have now applied for bail.

(2) A bird-eye view of the background is called for.

(3) L.N. Pradhan who is also an accused in the case, filed a Special Leave Petition in the Supreme Court on February 1, 1994 against an order of the Orissa High Court. The said Special Leave Petition was prepared by Mr. Mohanty and Mr. P.K. Jena, Advocates. It was mentioned before 1310 The Chief Justice and Hon'ble Mr. Justice S. Mohan on February 3, 1994 when notices were ordered to be issued to the respondents. However, later it was revealed that the District Collector, Balasore had received 649 a telegram purported to have been sent by the Supreme Court through its Joint Registrar. That telegram was as under: 'Ref. O J C 9668. High Court Orissa Stop Operation .Till Third Feb. 1994 For Final Order Joint Registrar, Supreme Court of India, New Delhi.' 4. The Collector acting on the telegram stopped a contractor from netting prawns which led to a loss of Rs. 11,00,000.00 . However, when this telegram was brought to the notice of the Supreme court on March 4, 1994 the Court rightly felt disturbed as no such order had ever been passed. The Court observed: 'Learned counsel for the first respondent has brought to our notice disturbing development in this case. At page 74 of the paper book is a certified copy of a purposed order, said to have been passed by this Court and communicated to the Collector, Balasore, Orissa. Apparently, no such order can be traced in the records of this Court. The telegram ordering stay is purportedly issued by the Joint Registrar of the Supreme Court to the Collector, Prima facie there is no such judicial order on the basis of which such a communication could have been sent. This is a serious matter and requires thorough investigation. The Registrar General of this Court is directed to hold an enquiry in this matter, and if in his opinion it is necessary with requisite police assistance. All such authorities as may be required by the Registrar General to assist him to the matter shall extend such assistance and cooperation under the authority of this order. The enquiry shall be completed within three weeks and a Report submitted to this court. The Registrar General may also summon the records from the Collector.' It was pursuant to the order noted above,,that a complaint was filed by the Registrar General of the Supreme Court leading to the registration of the case and the arrest of the accused including the two petitioners before me.

(4) The petitioners before me are Gaurhari Das and Golak Bihari Das. Both are real brothers. While the first is employed in the Forest Department of the Orissa

State, the second is stated to be a businessman with political leanings. The other two accused are L.N.Pradhan and Bhagaban Panigrahi. 650

(5) It was contended by Shri D.C.Mathur, Senior Advocate that petitioner No. 1 Gourhari Dass being a Forest Officer, was on regular duty and had neither visited Delhi with the other accused nor had he any role to play in the sending of the telegram in question. With regard to petitioner No.2 Golak Bihari Das also it was argued that there was nothing to show that he was a party to any conspiracy and that both the petitioners being totally unconnected with the other co-accused and with the litigation pending in the Orissa High Court, they had unnecessarily been dragged in. It was further argued that challan having already been filed and the investigation being thus complete, the petitioners deserved to be enlarged on bail on this score as well.

(6) The prosecution alleges that petitioner No.1 Gourhari Das knowing himself to be a Government servant, travelled to Delhi Along with the other accused persons, under the assumed name of I.C.Ash and all of them stayed together in a single room in Hotel Venus eluxe, Pahar Ganj, New Delhi and that all the accused had then contacted Mr.Mohanty and Mr.P.K. Jena Advocates of the Supreme Court and had got the Special Leave Petition drafted. That they had stayed together in Hotel Venus Deluxe finds support from the statement of Mr. Suresh Chand Kilra who was at that time employed as Hotel Supervisor. The latter part of the prosecution person finds support from the statements of the above named two Advocates recorded under section 161 of the Code of Criminal Procedure. It rather also appears that the accused including the present petitioners were very keen to get an order of stay before the 3rd of that month and that even fee to the lawyers was paid by the petitioners.

(7) My attention was also drawn to the statement of Mr.N.C.Ash whose name was allegedly assumed by petitioner No.1. It appears that Mr.Ash lives quite near to the petitioners and it appears from his statement that the petitioners had not only shown great interest in the auction which led to the litigation but petitioner No.1 had also told him that he Along with other accused was planning to go to Delhi to approach the Supreme Court.

(8) The material collected by the Investigating Agency further goes to show that the petitioners were interested in the auction of the ponds and that all the accused wanted to carry on the venture jointly.

(9) For what has been noticed above, it cannot be said that there is no material to connect the petitioners with the offences charged or that they have been roped in without any basis. This being a petition for bail, I would not like to deal with the matter at any greater length. Suffice to say 651 the charges are too serious. Add to it the apprehension of the Central Bureau of Investigation expressed during arguments that the petitioners being influential persons and most of the witnesses being from their native place, their release may lead to tampering with the evidence. I tend to agree.

(10) The result is that the petition is dismissed. However, nothing said in this order shall be read as an expression of opinion on the merits of the case.