

Anil Soni and ors. Vs. State and ors.

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Court : Delhi

Decided On : Nov-28-1996

Reported in : 64(1996)DLT812

Judge : N.G. Nandi, J.

Acts : [Constitution of India](#) - Article 226

Appeal No. : Criminal Miscellaneous Appeal No. 5332 of 1996 and Criminal Appeal No. 353 of 1996

Appellant : Anil Soni and ors.

Respondent : State and ors.

Advocate for Pet/Ap. : S. Lal and; P.K. Behl, Advs

Judgement :

N.G. Nandi, J.

(1) Petitioner, the brother of one Mohinder @ Suresh Kumar s/o Ramesh Chand, r/o Village Bho Garh, Narela, Delhi, permanent address r/o Village Khidolee, Parlادpur, District Sonapat, Haryana prays for writ of mandamus or any other appropriate writ, orders and/or directions thereby directing the Central Bureau of Investigation (CBI) or any other independent agency to reinvestigate and enquire into the entire incident of the abduction of the brother of the petitioner by

registering a proper case u/Section 364-A, Indian Penal Code and/or other relevant provisions of law.

(2) During the pendency of this writ petition, one Smt. Meena wife of Mohinder @ Suresh r/o Village Khidolee, Parladpur, District Sonapat, Haryana has also moved Cri. M. 5352 /96 stating that no fair investigation has been done by the Delhi Police by recording the statement of material and relevant witnesses in whose presence, threats were extended by Rajesh Kumar and Rakesh Kumar of Vijay Nagar, Narela. In this application, prayer is for the investigation into the incident of missing/abduction of her husband Mohinder @ Suresh.

(3) In the petition, it is alleged that on 28.3.96, Mohinder left for his work but did not return home and since then his whereabouts are not known; that complaint to that effect was also lodged with local police but of no avail with the result, nothing is known as to what happened regarding the 'missing/abduction of Mohinder.

(4) Mr. Behal states that all possible efforts have been made to investigate into the allegations of missing/abduction of Mohinder; that publicity was also made regarding missing of Mohinder @ Suresh through media and that he District Crime Branch also investigated into the allegations and lie detector test was also carried out on the suspected persons but nothing could come out on the basis of which any action could be taken by the District Crime Branch.

(5) Mr. Lal, learned Counsel for Cbi objects to the prayer in this petition/application contending that each and every matter cannot be entrusted to Cbi for investigation. In this regard, reliance has been placed on the decision in the case of State of West Bengal v. Sampat Lal, reported in : 1985 CriLJ516 . As far as the principle enunciated in this decision is concerned, there can be no disagreement. I agree that each and every case cannot be entrusted to Cbi for investigation but it is the gravity of the case which is to be considered for entrustment of the case to Cbi for investigation.

(6) In the present case, Mohinder @ Suresh is reported to have been missing/abduction since 28.3.96. Local police including District Crime Branch, Delhi have not been able to make any head-way in the investigation and nothing has surfaced

as a result of investigation by local police and Distt. Crime Branch. More had six months have elapsed since the incident of missing/abduction of Mohinder occurred. I am conscious of the fact that Cbi is over burdened with the work of investigation, still, however, that would be no justifiable reason not to require the Cbi to investigate into the office/incident if the gravity of the incident so demands.

(7) Looking to the facts and circumstances and the fact that local police and Distt. Crime Branch, Delhi have not been able to make any head-way despite full opportunity given to investigate into the incident, I am inclined to direct the Cbi to take over the investigation of the incident of missing/abduction of Mohinder @ Suresh Kumar son of Ramesh Chand.

(8) In the result, the writ petition as well as application moved by the wife of missing/abducted person, are allowed. Central Bureau of Investigation, New Delhi is directed to investigate in accordance with law into the incident dated 28.3.96 of missing/abduction of Mohinder @ Suresh Kumar s/o Ramesh Chand of Village Bhor Garh, Narela, Delhi, permanent resident of Village Khidolee, Parladpur, District Sonapat, Haryana and proceed in accordance with law. Writ Petition and Cri. M. allowed accordingly. Costs to both the sides.

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