

**Moti Vs. State of Rajasthan and ors.**

**Moti Vs. State of Rajasthan and ors.**

**SooperKanoon Citation :** [sooperkanoon.com/764102](http://sooperkanoon.com/764102)

**Court :** Rajasthan

**Decided On :** Dec-07-1987

**Reported in :** 1988(1)WLN360

**Judge :** G.M. Lodha, Actg. C.J. and; S.S. Byas, J.

**Appeal No. :** D.B. Criminal Misc. Habeas Corpus Petition No. 2360 of 1987

**Appellant :** Moti

**Respondent :** State of Rajasthan and ors.

**Judgement :**

G.M. Lodha, Actg. C.J.

1. On 20-10-87, the following order was passed by this court:

No reply has been filed by the respondents. Heard.

In the facts and circumstances of the case, it would be proper to pass an interim order for releasing Ratania on bail. He shall be released on bail on his furnishing a personal bond in the amount of Rs. 10,000/- together with two sureties each in the amount of Rs. 5000/- to the satisfaction of the learned Sessions Judge, Pratapgarh to put appearance in this Court whenever called upto to do so.

Before Ratania is released on bail, he will be got medically examined by the head of the department, Psychiatory, S.M.S. Hospital, Jaipur or from a Medical Board to

be constituted for that purpose by the Principal, S.M.S. Medical College, Jaipur. That certificate will be sent to this Court by the Superintendent, Central Jail, Jaipur.

Put upon 13-11-1987.

2. It is a case where the accused was acquitted on 22-9-1976 on the ground of insanity. The report of Superintendent, Manovagyanic Chikitasalaya, Jaipur dated 26-10-1977 states that Ratania has been treated for insanity and he has been cured. For some reason or the other, Ratania continued to be detained. An application of Moti under Section 335 was dismissed by the District & Sessions Judge on the ground that the Court has got no jurisdiction now because earlier order has been passed not to give his custody to friend or next of kin and kin under Section 338. It was only the State Government who is competent to pass order. No order has been passed by the State Government so far. Even though on 24-1-1983, the Collector, Chittorgarh wrote to the Deputy Secretary in the Home Department at Jaipur to release Ratania if some of his relatives takes responsibility to undertake his medical care and treatment. The letter dated 24-1-1983 reads as under:

vksj ls

ftyk n.Muk;d] fpRrk SM+x<

dks&

mi 'kklu lfpo]

x`g xzqi 12 foHkkx]

jktLFkku ljdkj] t;iqj

U;k;@tks@82@202-404

fo'k; % Jh jrfu;k dks /kkjk 338 tk-Qh- ds vUrZxr fifyt djus lac/k es A

egksn;-

fuosnu gS fd eq-ua- 20@74 js-Qh- dh /kkjk 302 rk-fg- U;k;ky; ls'ku tt] izrkix< ds fu.kZ; fnukad 22&9&1976 ls eqyfte Jh jrfu;k dh /kkjk 84 rk-fg- dk ykHk nsdj nks'keqDr fd;k tkdj /kkjk 3351, ds vUrZxr lsUVy tsy] t;iqj ls lsQ dLVM+h es j[kk x;k rc ls jrfu;k lsUVy tsy] t;iqj es gh gS A

;g gS fd fnukad 12&11&1982 dks Jh jrfu;k ds HkkbZ Jh mdkj firk xCck Mkaxh] fuoklh ikykSj }kjk ,d izkFkZuk&lk;= bl vk'k; dk izLrqr fd;k x;k fd og Loa; o mlds fj'rsnkj vkfn jrfu;k ls feydj vk;s gS tc og ikxy ugh gS A vr% mldks ge vius lkFk j[kuk pkgrs gS A

Jh mdkj ds izkFkZuk&lk;= ds vk/kkj ij v/kh{kd lsUVy tsy] t;iqj ls jrfu;k ds Lok LF; vkfn ds ckjs es tkudkj pkgh rks mUgksus fpfdRlk vf/kdkjh ] dsfUnz; dkjx`g fpfdRlky; ] lsUVy tsy] t;iqj dk ;g lk= vfxze dk;Zokgh gsrq Hkstk gS A fpfdRlk vf/kdkjh dh fjiks ZV ls izdV gksrk gS fd ;fn jrfu;k ds fj'rsnkj chekj dks nokbZ nsus o psd djkus dh ftEesokjh ys ys rks mldks figk fd;k tk ldrk gS A

bl lk= ds lkFk fpfdRlk vf/kdkjh dsfUnz; dkjx`g fpfdRlky;] t;iqj ds lk= dzekad 1883 fnukad 10&1&1983 dh izfrfyfi layXu dj fuosnu gS fd jrfu;k dks l'krZ fjfyt djkus dh Lohd`fr iznku Qjeok;sA

Hkonh;

ftyk n.Muk;d] fpRrkSMx

3. It is surprising and shocking that the State Government has not passed any order on it so far either accepting or rejecting the prayer of the Collector.

4. Moti, who is a near relative of Ratnia, is struggling hard for getting his release after his acquittal in 1976 but unfortunately on account of technical delaying correspondence between the Collector and the Government some times and some times, between the Superintendent Jail and the Medical Authorities, Ratnia continued to be detained in jail even after his acquittal in 1976, i.e., for a period of 11 years. Even according to the provisions of sections 335 and 338 Cr. PC, prompt and immediate orders were expected from the concerned authorities but this case displays how scant regard has been paid to his liberty & how even after acquittal, a citizen has remained in jail for such a long period without proper orders

under Section 338 by the Government, which should have been passed at least after the Collector recommended his release.

5. To add insult to injury, even the order of this Court dated 20th October, 1987 in which it was directed that he may be released on bail after the Principal of the Medical College gets him examined by the Head of the Department or by the Medical Board to be constituted has not been complied with. Till now we have not received the report of the Medical Board even though the Principal S.M.S. Medical College directed on 27-11-1987 that J.N. Vyas, Dr. Shiv Gautam and Dr. D.S. Pokharana should examine Ratania and send his report by 2-12-1987.

6. We feel that it is one of those grave exceptional cases where a citizen's liberty, guaranteed by the Constitution under Articles 20 & 21 of the Constitution of India, and inspite of series of authoritative pronouncements of Hon'ble Supreme Court not to permit such persons to languish in jail, after acquittal or even without trial has been jeopardised for about one decade.

7. The fact that the State Government did not pass any order at least to the knowledge of this Court or the party or Government Advocate representing the State till date after the recommendation of the District Magistrate on 24-1-1983 shows that very chaotic condition is prevailing, more so when the liberty of a citizen is involved. An additional feature of the case that even the Medical Board appointed, has not sent the report so far make the condition worst. It is obvious that none of the functionaries who so ever have considered this matter worth making any attempt what so ever and kept the entire correspondence in cold storage and threw the communications it waste paper basket, including that of the Collector concerned.

8. We, therefore, express our serious concern and deprecate the indifference, lethargy towards human liberty of the officials concerned and in particular, we deprecate the State functionaries not responding to the letter of the Collector of 1982 till now when we are at the end of 1987. Equally deprecable and reprehensive is the inaction in not promptly getting medically examined the concerned person i.e. Ratnia. We, therefore, order his immediate release without any condition in supersession of the order of the bail passed earlier.

9. We further direct that Ratnia would be given to the custody of Moti to take care of his health and get him medically checked up and prompt treatment is necessary.

10. It would, of course, always be permissible for the concerned authorities under the Indian Lunacy Act to take appropriate steps in case after release, it is found that Ratnia gets any fit of insanity or again develops it or when he becomes health hazard to public in general. The Habeas Corpus petition is accepted. The order of release would be sent today by the office to all concerned. Copies be sent to the Chief Secretary and the Home Secretary immediately.

**SooperKanoon - India's Premier Online Legal Search - [sooperkanoon.com](http://sooperkanoon.com)**