



IN THE HIGH COURT OF ORISSA AT CUTTACK

SUO MOTU W.P.(C) No. 23735 of 2024

*Registrar Judicial, Orissa High Court, ...
Cuttack*

Petitioner

Mr. Gautam Misra, Senior Advocate (Amicus Curiae)
assisted by Mr. A. Dash, Advocate

-versus-

Government of Odisha and Others ...

Opposite parties

Mr. Pitambar Acharya, Advocate General
Mr. L. Samantaray, Addl. Govt. Advocate
Mr. Saswat Das, Addl. Govt. Advocate

Mr. Durga Prasad Nanda, Senior Advocate
assisted by Mr. M. Dwibedi, Advocate

CORAM:

**HON'BLE THE CHIEF JUSTICE
HON'BLE MISS JUSTICE SAVITRI RATHO**

**ORDER
23.09.2024**

Order No.

01. This matter is taken up through Hybrid mode.
2. Suo motu cognizance of an incident that has taken place at Bharatpur Police Station, Bhubaneswar on 15.09.2024 has been taken by this Court based on a letter dated 18.09.2024 addressed to the Chief Justice of this Court by the Lieutenant General PS Shekhawat, AVSM, SM, General Officer Commanding & Colonel of the MECH INF REGT, Madhya Bharat Area. Mr. Shekhawat had met the Chief Justice at his residence on 17.09.2024, prior to making the said communication dated 18.09.2024. The contents of



the said communication are disturbing, which are being reproduced hereinbelow:-

“1. I am writing to bring to your attention, a grave incident that occurred at Bharatpur Police Station, Bhubaneswar on 15 September, 2024, where the prestige of a serving Army Officer was demeaned and the modesty and dignity of his fiancé, x x x x x .

2. The unfortunate incident took place when the Army Officer along with his fiancé went to the police station to file a complaint against miscreants who had misbehaved with the couple at approximately 0100 hours on the day of the incident. Instead of extending the expected protection and support, the officers on duty acted in a manner unbecoming of their position. They not only humiliated the lady but also molested her and also disrespected the Army Officer by putting him under custody without any charge for almost 14 hours. The medical inspection of the lady also indicates grave injuries, which point to manhandling by the police personnel. The Bharatpur Police Station does not have a CCTV installed which is violative of Hon'ble Supreme Court's directions. The police actions and their purported statements are manipulative and aimed at concealing the police brutality on the lady and the officer.

3. Sir, the actions of the police personnel have deeply shaken the faith of the victims and also the military fraternity as a whole in the law enforcement system. This is evident from the wide coverage of the incident, not only on the main stream media but also the outrage of netizens across all social media platforms. While the officer was later released on intervention by the military authorities on the night of 15 September, the lady is still in judicial custody. Her medical examination was done at Institute of Medical Science and SUM Hospital, Bhubaneswar, which



indicates reasonable injuries, but a subsequent medical done at Capital Hospital, Bhubaneswar was manipulated and shows no such injuries. The manipulated medical reports were produced before the Judicial Magistrate, thus, forging evidence as well as misleading the judiciary. Such blatant manipulation and tampering of evidence is violative of her basic rights. I am enclosing the medical documents and photographs of her injury for perusal of your lordship. The arbitrary manner in which the lady was put through medical examination as also the hastily conducted hearing in front of the Magistrate on 15th September are indicative of gross travesty of justice and to an extent, manipulation of evidence.

4. Sir, we are of the opinion that the law has been violated on numerous counts. In the first instance a serving Army Officer was placed under custody without any offence and also without informing the Army Authorities. Secondly, the couple who had approached the police station for lodging a complaint, were denied their rights and instead a FIR was framed against the lady. In addition, the lady was sexually abused and manhandled. She was also subjected to physical torture. Subsequently, while in jail the lady was denied medical assistance when she complained of pain in her jaw and hip due to the manhandling she had sustained. The jail doctor too diagnosed suspected fracture of jaw but the jail authorities paid no heed to his advice. It was on the intervention of the Hon'ble Cuttack High Court that her medical examination and medical treatment is being done at AIIMS, Bhubaneswar. Denying basic medical assistance is grossly inhuman and violation of Human Rights of any individual. The lady was sexually abused by Mr. Dinakrushna Mishra, the IIC of Bharatpur Police Station and manhandled by the lady SI at the Police Station.



5. On intervention by the Army Authorities, the case has been handed over to the Crime Branch of the Orissa Police and an independent enquiry constituted. The lady, however, continues to remain in judicial custody.

6. In the light of the above, I humbly request your lordship to take Suo Motu cognizance of this incident and ensure that ends of justice are served by ensuring the following:-

(a) Grant of bail to the lady without any further delay.

(b) The enquiry conducted by the Crime Branch is absolutely fair and impartial in both letter and spirit. A FIR be lodged against the miscreants who indulged in the scuffle with the couple on the night of 14-15 September.

(c) The errant police personnel are not only removed from their positions but also adequately punished so that the corrective message is sent to all concerned.

(d) The police authorities be instructed to implement Hon'ble Supreme Court orders and install CCTV so that the action of police authorities are transparent and not violative of basic Human Rights of the citizens of the country.

(e) The concerned medical authorities at Special Jail, Jharpada be held accountable for not providing urgent medical assistance to the lady even after the medical advice by the doctor of the Jail.

7. I am sanguine that under your Lordship's guidance, the matter will be impartially investigated and prompt appropriate action will be taken against those responsible.

8. Thanking you, Sir, in anticipation for your kind intervention."

3. It is noted that the police have registered an FIR against the said two persons who had gone to the police station, for various



cognizable offences including the offence of attempt to murder the police personnel, being Bharatpur P.S. Case No.640 of 2024, at the instance of a police officer posted there.

4. Mr. Pitambar Acharya, learned Advocate General appearing on behalf of the opposite parties-State of Odisha has submitted that considering the gravity of the occurrence, the Director General of Police, Odisha has taken swift action by transferring investigation of Bharatpur Police Station P.S. Case No.640 of 2024 to the Crime Branch and a fresh Crime Branch P.S. Case No.10 of 2024 has been registered. Another case i.e. Crime Branch P.S. Case No.11 of 2024 has been registered based on a complaint made by the person, who had visited the police station. Yet another case has been registered subsequently, namely, Chandaka P.S. Case No.315 of 2024 which is connected with the incident of road rage, to complain about which the persons had gone to the police station. He submits that all the three cases are being investigated by the Crime Branch of the State of Odisha under the supervision of the Addl. Director General of Police, Crime Branch.

5. Mr. Acharya, learned Advocate General has further informed that in exercise of power conferred by Section 3 read with sub-section (1) of Section 5 of the Commissions of Inquiry Act, the State Government has appointed a Commission of Inquiry headed by Shri Justice C.R. Dash, a retired Judge of this Court to inquire into the matter and report in respect of the following matters, within 60 days :-



“(i) Examining the sequence of events and circumstances alleged to have led to the incidents of alleged misbehaviour/ assault on a woman, serving army officer, police officers etc. leading to registration of Bharatpur PS Case Nos.640/15.09.2024 (CID-CB Case No.10/24), CID-CB Case No.11/24 and Chandaka PS Case No.315, dated 19.09.2024 of UPD Bhubaneswar.

(ii) The Role, Conduct and Accountability of the Individuals/ Groups/Authorities.

(iii) Any other matter connected with or incidental thereto as the Commission may consider appropriate.

(iv) To suggest measures to be taken to avoid the recurrence of such events in future and ensuring safety and Security of women.”

6. He has also submitted that in the interest of justice, this Court, if it considers desirable, may monitor the investigation, though steps have been taken by the State Administration at the level of police head quarters.

7. We do appreciate the swift action taken at the level of the Director General of Police (DGP) to investigate the occurrence. It is needless to say that power and duty of the Investigating Agency to investigate into a cognizable offence is statutory and unless there are exceptional circumstances, it is not desirable for the Court to interfere. We expect that the Investigating Agency shall act independently and fairly. There is no reason why this Court should monitor the investigation.



8. What is disturbing to this Court, after having seen the sequence of events, that admittedly two persons had entered into the police station, apparently with no intention to commit any crime, rather to lodge a complaint. What happened inside the police station is a matter which is under investigation. It is, however, surprising that they came out of the police station with an FIR registered against them alleging commission of offence of attempt to murder the police personnel. It is an admitted fact that the concerned police station does not have the facility of CCTV camera. This is despite the Supreme Court's directions issued in the cases of *D.K. Basu Vs. State of West Bengal* reported in (2015) 1 SCC 744, *Paramvir Singh Saini Vs. Baljit Singh and Others*, reported in (2020) 7 SCC 397 and (2021) 1 SCC 184.

9. Mr. Acharya, learned Advocate General has submitted that there are all together 650 police stations in the State of Odisha, out of which 559 police stations are equipped with CCTV cameras. Some of the newly constructed police stations do not have the facility of CCTV cameras.

10. At this juncture, we make it clear that unless the circumstances are exceptional and compelling, this Court shall not comment upon the investigation which is being conducted by the police, who have the statutory power to conduct such investigation. The State of Odisha has already constituted a Commission under the Commission of Inquiry Act headed by a retired Judge of this Court. In the present suo motu proceeding in the nature of Public Interest



Litigation, the Court will generally confine itself to the issues concerning facilities available in various police stations and police outposts in the State of Odisha.

11. For the said purpose, for the present, we direct the Addl. D.G. of Police (Modernisation), Odisha, Cuttack Mr. Dayal Gangwar, I.P.S. to submit a report based on the information available with the headquarters as regards availability of CCTV facilities in all the police stations and outposts in the State. He will be required to submit a report by 8th October, 2024. If possible, Mr. Gangwar shall be required to explain the scheme of positioning of the CCTV cameras in the police stations. If required, we shall issue further directions to ensure that the Supreme Court's direction in the cases noted above are fully complied with, depending upon the nature of report which is submitted by Mr. Gangwar.

12. We further observe that Mr. Gangwar shall submit his report to this Court as an officer of the Court and shall assist the Court in the present matter in that capacity, even if, he is shifted to any other post in the State of Odisha. In his report, he must also mention as to whether the existing CCTV facilities in various police stations are in fact functional or not. Storage capacity of the hard disk kept in the police station should also be disclosed in the said report.

13. As the incident also concerns the prestige and dignity of an army officer, who was on leave, the Court would like to know from



the State Government as to what steps it intends to take to protect the dignity of the personnel of the Armed Forces, in such situations.

14. We have consciously not mentioned the names of the persons, who had visited the police station on 15.09.2024, in the present order.

15. Since we have noticed that their names and identities are being disclosed in the print, electronic and social media, we consider it proper in the facts and circumstances to restrain all concerned from publishing their names and identities on either print, electronic or social media, in any manner.

16. We make it clear and reiterate that the observations made in the present order shall not in any manner affect the investigation which is being conducted by the investigating agency.

17. We shall consider issuing directions for regular maintenance of CCTV facilities in various police stations and outposts, if needed.

18. We request Mr. Gautam Misra, learned Senior Counsel assisted by Mr. A. Dash, learned counsel to assist this Court as Amicus Curiae in the present matter.

19. The Court also requests Mr. Dayal Gangwar, Addl. D.G. of Police, Modernisation, Odisha, Cuttack to suggest a foolproof method of ensuring proper maintenance of CCTV facilities in the police stations.



20. List this matter on 08.10.2024.

(Chakradhari Sharan Singh)
Chief Justice

(Savitri Ratho)
Judge

SK Jena/Secy.