

IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P.(PIL) No.2696 of 2021

Court on its own motion

Versus

The State of Jharkhand through
the Chief Secretary & Others

... Respondents

**CORAM : HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE SUJIT NARAYAN PRASAD**

For the State : Mr. Rajiv Ranjan, Advocate General
For the U.O.I. : Mr. Rajiv Sinha, A.S.G.I.
For the Victim Family : Mr. Sanjeev Sahay, Advocate

ORAL ORDER

03/Dated 3rd August, 2021

The matter has been heard through video conferencing and there is no complaint whatsoever regarding audio and/or video quality.

2. Reference may be made to the order dated 29.07.2021.

It requires to refer herein that on the basis of the letter written by Principal District and Sessions Judge, Dhanbad bearing letter No.2788-G/2021 dated 29.07.2021 about the incidence regarding sad and unfortunate demise of Shri Uttam Anand (deceased), District and Additional Sessions Judge-VIII, Dhanbad (as he then was) on 28.07.2021, we have taken *suo moto* cognizance treating the letter as the writ petition in the nature of Public Interest Litigation.

We had perused the CCTV recording of the occurrence and as such, called upon the learned Advocate General of the State, Director General of Police, Jharkhand,

Senior Superintendent of Police (SSP), Dhanbad and Superintendent of Police (City), Dhanbad as also Mr. Rajiv Sinha, learned Assistant Solicitor General of India.

3. After hearing the parties as also learned members of the Bar, this Court was *prima facie* of the view that the investigation is required to be handed over to the Central Agency, i.e., Central Bureau of Investigation, but on the submission made by learned Advocate General of the State that Special Investigating Team has already been constituted under the Superintendent of Police (City), Dhanbad by whom two persons have been apprehended and further that a high ranking officer of the State Police can head the Special Investigating Team suggesting the name of Mr. Sanjay Anand Lathkar, IPS, Additional Director General (Operation), this Court vide order dated 29.07.2021 directed the Director General of Police to issue appropriate order/direction for heading the Special Investigating Team by Mr. Sanjay Anand Lathkar, IPS, Additional Director General (Operation) with a further direction upon the Special Investigating Team to take over the investigation and conduct the investigation in a professional manner and submit its progress report on 03.08.2021.

We had also observed that this Court wants speedy, fair and professional investigation in the matter and would monitor the progress of the case. This was the reason for posting the case today as also to consider whether the

investigation by the Special Investigation Team would continue or to hand it over to the Central Bureau of Investigation.

We had further observed that apprehending a pawn would be meaningless unless the conspiracy is fully uncovered and the mastermind is nabbed. Time would be essence of matter in this investigation. Delay as well as well as any flaw in investigation may eventually affect the trial adversely.

4. The matter has been posted today i.e., on 03.08.2021 as directed by this Court vide order dated 29.07.2021.

Affidavits have been filed by the Director General of police and the Head of the Special Investigating Team.

5. This Court has perused the aforesaid affidavits and put questions to the Investigating Agency. It is intriguing when the CCTV footage of the incidence became viral within 2 to 4 hours from the time of occurrence and the injured Judicial Officer was taken to a private hospital at about 5.30 A.M. then why the F.I.R. was instituted so belatedly at 12.45 P.M. after a complaint was lodged by the wife of the Judicial Officer? The CCTV must be regularly being monitored by police. The Doctors of the Hospital must also had informed the police then why the police became active only after the complaint being lodged by the wife of Judicial Officer becomes questionable.

Copy of the post-mortem report has been produced and the doctor who has conducted the post-mortem has opined **“Caused by hard and blunt substance and death due to head injury”**.

We have perused the questionnaire framed by the Investigating Officer namely Mr. Vinay Kumar dated 31.07.2021 addressed to Dr. Kumar Shubhendu, Assistant Professor, Department of F.M.T, SNMMC, Dhanbad asking questions from the concerned doctor. The first question is **“Please explain whether the injuries in the head are possible by fall on road surface or not?”**

We have interacted with the Investigating Officer in the presence of the Director General of police and the Head of the Special Investigating Team and asked as to when the Investigating Agency is investigating the occurrence in order to find out the reason of death then how and under what circumstances such question is being asked by the Investigating Officer from the concerned doctor that too when the CCTV footage clarifies the entire scene of occurrence ? Post Mortem report clearly disclose that the fatal injury has been caused by hard and blunt substance. Thereafter, it is for the Investigating Agency to find out the weapon of crime. Feeding a particular question to the doctor to get a particular answer is not at all appreciated, however, neither the Investigating Officer nor the Head of the Special Investigating Team could give a proper reply.

6. During the course of hearing, learned Advocate General has apprised this Court about an order passed by the State Government dated 30.07.2021 passed in exercise of power conferred under Section 6 of the Delhi Special Police Establishment Act, 1946 whereby the Governor of Jharkhand has accorded consent to extension of powers and jurisdiction to the members of Delhi Special Police Establishment in the whole of State of Jharkhand for investigation into Dhanbad PS Case No. 300/2021 registered for committing offences u/s 302 of I.P.C. in connection with the said offences and any other offence in the aforesaid transaction. The contents of the order reads as under :-

**“GOVT. OF JHARKHAND
HOME, PRISON AND DISASTER MANAGEMENT DEPARTMENT**

NOTIFICATION

Ranchi, Dated 30 July, 2021

No.-10/C.B.I.-410/2021 2715 / In exercise of the powers conferred by Section 6 of Delhi Special Police Establishment Act, 1946 (Act 25 of 1946) H.E. the Governor of Jharkhand has been pleased to accord consent to the extension of powers and jurisdiction to the members of Delhi Special Police Establishment to the whole of State of Jharkhand for investigation into Dhanbad P.S. (Dhanbad District) Case No. 300/2021 registered for committing offences u/s 302 of I.P.C. in connection with the said offences and any other offence in the aforesaid transaction.

By order of the Governor of Jharkhand

Sd/- 30/7/2021

(Dhanesh Kumar)

Under Secretary to the Government

Memo No. 10/C.B.I.-410/2021 2715, Ranchi Dated: 30.07.2021

Copy forwarded to Nodal Officer Gazette, Home, Prison and Disaster Management Department, Jharkhand, Ranchi for information and necessary action.

Sd/- 30/7/2021

Under Secretary to the Government”

Learned Advocate General has further submitted that as yet the competent authority of the Union of India has not issued notification in exercise of power under Section 5 of the Delhi Special Police Establishment Act, 1946.

7. Mr. Rajiv Sinha, learned Assistant Solicitor General of India submits on instruction that the aforesaid notification dated 30.07.2021 was received in the Department of Personnel and Training (DoPT), Government of India and immediately thereafter a request has been made by the Department of Personnel and Training, Government of India on 02.08.2021 requesting the Central Bureau of Investigation to take over the investigation pertaining to Dhanbad PS Case No. 300/2021 dated 28.07.2021. He further submits that the Central Bureau of Investigation has accepted it and there is every likelihood that by tomorrow i.e., 04.08.2021, the notification will be issued in this regard and thereafter the investigation will be taken over by the Central Bureau of Investigation.

8. The matter is having urgency and that is the reason this Court has taken up the matter *suo moto* treating the letter of the PDJ as Public Interest Litigation so that the conspiracy part of the occurrence, if any, which led to the occurrence is investigated and, therefore, this Court is hereby directing the Secretary, Department of Personnel and Training, Government of India and the Director, Central Bureau of Investigation to forthwith come up with

appropriate order/notification for taking over the investigation.

9. The State Government, through the Chief Secretary of the State and Director General of Police and the Head of the Special Investigating Team, is directed to extend full co-operation to the Central Bureau of Investigation by extending all logistic support.

10. This Court has already passed order on 29.07.2021 for monitoring the progress of the case taking into consideration the seriousness of the matter and will continue to monitor and accordingly, this Court deems it fit and proper to post this case on 12.08.2021.

11. The update in the investigation along with the progress report shall be produced in sealed cover by the Investigating Agency on or before the next date of hearing.

12. Let a responsible officer of the Central Bureau of Investigation appear in person before this Court through on-line mode on the next date of hearing.

13. We have put a question to the learned Advocate General as also the Director General of Police that what steps are being taken to provide security to the court premises of the Civil Court, Dhanbad and residential premises of the judicial officers in the district of Dhanbad so that they may perform their judicial work without feeling any insecurity ?

We have also put a query to look into the security measures of the court premises of each and every Judgeship of the State of Jharkhand including the residential premises of the judicial officers of the different Judgeships of the State.

Upon this, learned Advocate General and the Director General of Police, have assured this Court that adequate security measures would be taken forthwith.

They have further submitted that immediate steps would be taken to provide security in the court premises and residential premises of the Judgeship of Dhanbad and other districts and the same would be brought to the notice of this Court.

14. Let this matter be posted on 12.08.2021 at the top of the list.

15. The required affidavits, as directed, shall be filed along with progress of investigation on or before the next date of hearing.

(Dr. Ravi Ranjan, C.J.)

(Sujit Narayan Prasad, J.)