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SUPREME COURT CASES

(2008) 7 SCC

(2008) 7 Supreme Court Cases 164

(Record of Proceedings)

(BEFORE B.N. AGRAWAL AND G.S. SINGHVI, JJ.)

LALITA KUMARI

.. Petitioner;

Versus

GOVERNMENT OF UTTAR PRADESH
AND OTHERS

.. Respondents.

Writ Petition (Crl.) No. 68 of 2008, decided on July 14, 2008

A. Criminal Procedure Code, 1973 — Ss. 154(1), 154(2), 154(3), 157(1), 190(1)(a) and 200 — Inaction of police to record FIRs, and in cases FIR recorded on court directions, apathy to investigate the case — Such an instance brought to the notice of the Court — In order to curb this malady, the Court proposing to issue stringent directions pinning responsibility on police authorities to act promptly, or else to face contempt/disciplinary proceedings including suspension — Notices therefore issued to all State Govts./UTs and DGs of Police/Commissioners of Police for ascertaining their views before issuing directions — Constitution of India — Arts. 14 and 21 — PIL — Penal Code, 1860 — Ss. 359 to 363 — Service Law — Departmental enquiry — Suspension — Contempt of Courts Act, 1971 — S. 2(b) — Civil contempt (Paras 4 to 8)

B. Practice and Procedure — Urgent notice — PIL — Notices to State Govts./DGs of Police/Commissioners of Police — In view of urgency of the matter, notices issued by fax and the Supreme Court order proposing certain directions to be issued to the police authorities, posted on Supreme Court's website so as to expedite filing of reply by the respondents — Information Technology Act, 2000, S. 4 (Para 9)

K-M/38724/CRL

Advocates who appeared in this case :

Pranesh and Ms Mona Rajvanshi, Advocates, for the Petitioner.

ORDER

1. Exemption allowed.

2. Heard learned counsel appearing on behalf of the petitioner.

3. The grievance in the present writ petition is that the occurrence had taken place in the month of May and, in that very month, on 11-5-2008, the written report was submitted by the petitioner before the officer in charge of the police station concerned, who sat tight over the matter. Thereafter, when the Superintendent of Police was moved, a first information report (for short "FIR") was registered. Even thereafter, steps were not taken either for apprehending the accused or recovery of the minor girl child.

4. It is a matter of experience of one of us (B.N. Agrawal, J.) while acting as Judge of the Patna High Court, Chief Justice of the Orissa High Court and Judge of this Court that in spite of law laid down by this Court, the police authorities concerned do not register FIRs unless some direction is given by the Chief Judicial Magistrate or the High Court or this Court. Further,

experience shows that even after orders are passed by the courts concerned for registration of the case, the police does not take the necessary steps and

a when matters are brought to the notice of the inspecting Judges of the High Court during the course of inspection of the courts and Superintendents of Police are taken to task, then only FIRs are registered. In a large number of cases investigations do not commence even after registration of FIRs and in a case like the present one, steps are not taken for recovery of the kidnapped person or apprehending the accused person with reasonable dispatch. At

b times it has been found that when harsh orders are passed by the members of the judiciary in a State, the police becomes hostile to them, for instance, in Bihar when a bail petition filed by a police personnel, who was the accused was rejected by a member of the Bihar Superior Judicial Service, he was assaulted in the courtroom for which contempt proceeding was initiated by the Patna High Court and the erring police officials were convicted and

c sentenced to suffer imprisonment.

5. On the other hand, there are innumerable cases that where the complainant is a practical person, FIRs are registered immediately, copies thereof are made over to the complainant on the same day, investigation proceeds with supersonic jet speed, immediate steps are taken for

d apprehending the accused and recovery of the kidnapped persons and the properties which were the subject-matter of theft or dacoity. In the case before us allegations have been made that the Station House Officer of the police station concerned is pressurising the complainant to withdraw the complaint, which, if true, is a very disturbing state of affairs. We do not know, there may be innumerable such instances.

e 6. In view of the above, we feel that it is high time to give directions to the Governments of all the States and Union Territories besides their Director Generals of Police/Commissioners of Police as the case may be to the effect that if steps are not taken for registration of FIRs immediately and copies thereof are not made over to the complainants, they may move the Magistrates concerned by filing complaint petitions to give direction to the

f police to register case immediately upon receipt/production of copy of the orders and make over copy of the FIRs to the complainants, within twenty-four hours of receipt/production of copy of such orders. It may further give direction to take immediate steps for apprehending the accused persons and recovery of kidnapped/abducted persons and properties which were the subject-matter of theft or dacoity. In case FIRs are not registered

g within the aforementioned time, and/or aforementioned steps are not taken by the police, the Magistrate concerned would be justified in initiating contempt proceeding against such delinquent officers and punish them for violation of its orders if no sufficient cause is shown and awarding stringent punishment like sentence of imprisonment against them inasmuch as the disciplinary authority would be quite justified in initiating departmental proceeding and

h suspending them in contemplation of the same.

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7. Keeping these facts in mind, we are of the view that notices should be issued to the Government of all the States and Union Territories besides the Director Generals of Police/Commissioners of Police, as the case may be. a

8. Issue notice to the Chief Secretaries of all the States and Union Territories and the Director Generals of Police/Commissioners of Police, as the case may be, to show cause as to why aforesaid directions be not given by this Court.

9. Notices may be sent to the parties by fax and it should be mentioned therein that the order has been put on the website of the Supreme Court of India so that they may file response without loss of time. b

10. Let the Registry place this order on the website immediately on receipt of the file so that the authorities concerned know about the same and that the person concerned may file response within the time granted hereunder.

11. Three weeks' time is allowed to file response. c

12. Place this matter on 8-8-2008.

Court Masters

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(BEFORE DR. ARIJIT PASAYAT AND P.P. NAOLEKAR, JJ.)

K. SAGAR, MANAGING DIRECTOR, KIRAN
CHIT FUND, MUSHEERABAD .. Appellant;

Versus

A. BAL REDDY AND ANOTHER .. Respondents. e

Civil Appeal No. 1498 of 2005[†], decided on June 11, 2008

A. Consumer Protection — Consumer forums — Jurisdiction and powers — Necessity of determining question of jurisdiction as a preliminary issue — State Commission not deciding question whether it could entertain a dispute between a chit fund and one of its prized subscriber or between the subscribers in appeal — State Commission holding a chit fund not be a consumer and therefore also not deciding the question of jurisdiction — National Commission not referring to its earlier decision on the same question and dismissing the review petition against the State Commission's order — Sustainability — Issue relating to jurisdiction has to be decided by the forums first — Matter remitted to the State Commission to consider the question of jurisdiction — Practice and Procedure — Maintainability f

B. Consumer Protection — Consumer forums — Precedents — Necessity to consider — National Commission not referring to its earlier decision on the same question and dismissing the review petition against the State Commission's order — Sustainability — Held, National Commission ought to have considered its earlier decision on the matter g

[†] From the Final Order dated 12-4-2004 of the National Consumer Disputes Redressal Commission, New Delhi in Revision Petition No. 1227 of 2001 h