

Jwala Devi

Vs

Sub-Inspector Bhoop Singh and Others

Special Leave Petition (Criminal) No. 3481 of 1987

(Rangath Misra, M. N. Vankatachaliah JJ)

02.05.1989

ORDER

RANGANATH MISRA, J. –

1. This is an application under Article 136 of the Constitution and is directed against the order of the Delhi High Court in Criminal Writ Petition No. 370 of 1987 dismissing it by saying :

In view of the rival versions and contentions, we consider it not appropriate to give any finding of facts. The petitioner, if so advised, can take appropriate steps but in the present petition, no relief can be granted.

2. The petitioner alleged that the respondents entered into her house in the afternoon of July 15, 1987, and physically assaulted her, subjected her to torture in various ways and even outraged her modesty and paraded her in the street after rubbing black shoe polish on her face. The allegations made in the writ petition were seriously disputed and the High Court found it difficult in the face of such challenge to come to any conclusion and, therefore, relegated the petitioner to any other proceeding. This order of the High Court has been assailed in this application for special leave.

3. By order dated May 2, 1988, this Court required the Sessions Judge of Delhi either by himself or through an Additional Sessions Judge under his control to hold an inquiry into the allegations made in the petition and after ascertaining the correctness of the facts to make a report to this Court. The Inquiry Judge was authorised to receive evidence. After some adjournments granted by this Court, the report dated October 1, 1988, was received from Shri K. P. Verma, Additional Sessions Judge, Delhi. Several witnesses were examined before him on either side and a good number of documents were produced. After discussing the material in a somewhat mechanical manner, the learned Inquiry Judge came to the conclusion that the 'petitioner appears to have made a hill out of a molehill'. On reading the report, we formed the impression that the approach of the Inquiry Judge was negative and the mechanical manner in which he made his assessment was perhaps not the right way to treat the matter. With a view to assuring ourselves that the cause of justice does not suffer we required Mr. Bana, counsel for the petitioner to place before us the entire material which was available to the learned Additional Sessions Judge, and an analytical submission by counsel. That has been done and we have looked into the papers.

4. Mr. Bana has particularly contended that the petitioner, who is an aged lady, has been very badly treated and the public officers whose main job is to maintain law and order have conducted themselves in a very high-handed and irresponsible manner and should be punished. We have acquainted ourselves with the broad aspects of the materials and the stand taken by the respondents.

It is difficult for us, as it was for the High Court, to come to any definite conclusion regarding the correctness of the allegations of the petitioner. It is perhaps true that some incident did happen for which the petitioner could genuinely make grievance but the same seems to have been mixed up inextricably with embellishments and, therefore, it has become difficult for the Additional Sessions Judge to disengage truth from embellishments and it has been equally difficult for us to do so. There can be no two opinions that if the allegations as made by the petitioner are true, the public officers must deserve condemnation with any limitation for the dastardly acts. In case there is a ring of truth in the defence plea that the petitioner's son who was then working as Warder in the Tihar Jail and some other persons were engaged or associated with illicit traffic in drugs referred to in the report, the police perhaps had justification to tighten its attitude. The purpose of this inquiry cannot be to find out whether there has been some element of excess or impropriety for which the petitioner would deserve compensation.

5. We are told by counsel of both sides that several other proceedings including the one taken by the petitioner pursuant to the High Court's order are pending. We find it embarrassingly difficult to express any view in a positive way as the pending proceedings are likely to be prejudiced.

6. Yet, we reiterate what has already been said, namely, that there was perhaps an incident which but for the police support would have been difficult to be done. The petitioner has been to that extent affected in the facts and circumstances of the case and the manner in which the proceeding has gone on, we think it appropriate that the petitioner should be awarded a sum of Rs. 5000 to be paid by the Delhi Administration. This amount should be paid to her within four weeks. We make it explicitly clear that award of this amount to the petitioner may not be taken as a material to support the stand that allegations of the petitioner were true, or that the police officers had misconducted themselves and the pending cases should not be disposed of one way or the other by relying upon what we have said. The amount of Rs. 5000 which we have fixed should be taken as a payment to meet the costs of the petitioner in the proceeding taken by her and not in vindication of the stand she had taken in the court below or before us or in the inquiry.

7. Beyond what we have said above, we do not propose to make any other order in this special leave petition. We direct its disposal on the above terms.

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