

Supreme Court Legal Aid Committee Through Its Hony. Secretary

Vs

State of Bihar and Others

Writ Petition (Criminal) No. 303 of 1989

(CJI Ranganath Misra, P. B. Sawant JJ)

04.03.1991

ORDER

1. This is an application under Article 32 of the Constitution on behalf of the Supreme Court Legal Aid Committee alleging on the basis of information published in the Illustrated Weekly of India of July 2, 1989 inhumane behaviour meted out to a person in police custody. On notice being issued an affidavit was filed by a Deputy Superintendent of Railway Police, Jamalpur within the State of Bihar narrating the details of the incident in which the victim Mahesh Mahto had been injured when the passengers of a railway train where looting had been done by a crowd had beaten up several persons including the victim. Mahesh had received serious injuries and had to be taken to the hospital for treatment. As no transport was available a rickshaw was hired for the purpose of removing the injured to the hospital. By then the injured had become unconscious and the Havaladar tied him with rope to the footboard of the rickshaw. The counter-affidavit accepts the position that no timely treatment was provided to the injured. Had proper attention been given the injured could perhaps have been saved from the clutches of death. It appears that disciplinary proceedings has been taken against the delinquent Havaladar. Since this affidavit was not considered sufficient by this Court, a further affidavit was filed along with a copy of a post-mortem report after the victim died.

2. We are surprised that the State has not considered it appropriate in the facts and circumstances appearing in the record to take a serious view of the matter as it deserved. As the affidavits of the Deputy Superintendent indicate if appropriate attention had been given and timely medical care had been provided the life of the victim could perhaps have been saved. It is the negligence of the Havaladar that has led to the death. It is the obligation of the police particularly after taking a person in custody to ensure appropriate protection of the person taken into custody including medical care if such person needs it.

3. Taking note of the facts and circumstances appearing on the record, we direct that the compensation of Rs. 20,000 - such a sum is ordinarily paid in the case of death - shall be paid by the State of Bihar to the legal representatives of Mahesh Mahto. The amount shall be deposited with the District Judge, Munger and the District Judge is directed to institute a proper inquiry to satisfy himself as to who the heirs of the deceased Mahesh Mahto are. The amount of Rs. 20,000 shall be paid to them by the District Judge and in case he is of the view that the money should be held in a long term fixed deposit in favour of the rightful heir it is open to him to do so. A compliance report of this direction be furnished to the Registry of this Court within three months.

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