

Om Prakash

Vs

State (Delhi Administration) and Others

Writ Petition (Criminal) No. 782 of 1991

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

24.10.1991

ORDER

1. This application under Article 32 of the Constitution had come to this Court during the long vacation. The first order was made on May 14, 1991 when the learned Vacation Judge (one of us) was satisfied that the mother must get back her daughter. During the vacation some more orders were made and it was only on July 17, 1991, on being satisfied that the orders of this Court were not being duly complied with, we required the Commissioner of Police, Delhi to personally look into the matter. Notwithstanding that direction and the sense of urgency indicated in the language of the order, the Commissioner of Police, as it transpires from the subsequent affidavits and documents, was not made aware of the direction until August 5, 1991. This Court took serious view of the direction of this Court dated July 17, 1991 not being brought to the notice of the Commissioner and the Commissioner not complying with the direction. Subsequently, notice was issued to all the police officers who dealt with the matter, namely, receiving the direction of this Court and not bringing it to the notice of the Commissioner. Certain affidavits have been filed by those officers pleading alibi of liability.

2. At one stage when the learned Attorney-General appeared for the respondents, we thought it appropriate that the responsibility of looking into the matter in depth should be left to him and the police officers should be adequately pulled up and made alive about their responsibility to comply with the orders of this Court.

3. A news item got published in the local press at Agra that a dead body of a lady was discovered from a well. That gave rise to a representation being made by the counsel for the petitioner that the dead body was of the girl in question. Our doubts got somewhat confirmed when the petitioner's wife appeared in Court identified the photograph to be the dead body of her daughter.

4. It so happens that the girl is alive and further investigation has discovered the girl and brought her home. The main grievance of the petitioner has, therefore, been solved. We would like to thank the Attorney-General for his personal interest in the matter. We are satisfied that but for the interference of the Court and the interest shown by the learned Attorney-General, the police would not have taken appropriate steps in the investigation of the matter and ultimate recovery of the girl.

5. It will not be appropriate to dispose of the matter without one word about the conduct of the police. When an order is made by the apex court particularly in the presence of the counsel for the State, two aspects must be taken notice of : (1) it becomes the obligation of the State counsel to communicate the direction immediately if there is an order involving urgency in the matter of compliance and (2) the order of the apex court must be taken in a serious way by everyone and

particularly by the public officers. We are of the view that there has been a failure particularly of the second aspect. There is no material which would disprove the personal affidavit of the Commissioner of Police that he was not aware of the order until August 5, 1991. We, therefore, intend to say nothing against him, but the intermediaries involved in the matter of not bringing the Court's direction to the notice of the Commissioner should be adequately censured. We understood from the submission made by the learned Attorney-General that proceedings have been taken against them. We hope and trust that the closure of these proceedings will not see their end and the proceedings would be continued. The police officers should be adequately dealt with and a report made to this Court within three months from now that the proceedings have duly terminated in a legal way.

6. The writ petition is disposed of. Place the report before a bench where Mr Justice Singh is a member.

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