

SUPREME COURT OF INDIA

Ajab Singh

Versus

State of Uttar Pradesh

(S. P. Bharucha and S. N. Phukan, JJ.)

Writ Petition (Crl.) Nos. 291-292 of 1997.

09.03.2000

JUDGMENT

S.P. Bharucha, J. - These writ petitions under Article 32 of the Constitution of India are filed by the parents of one Rishipal who died while in judicial custody on Ist June, 1996. They pray that an investigation by the Central Bureau of Investigation be ordered into the circumstances of Rishipal's death and that the respondents, the State of Uttar Pradesh and the police and jail authorities of Meerut, be directed to pay to them compensation for this death.

2. Rishipal was married to Munish and had three children, aged 7, 4 and 2-1\2 years in 1997. Munish died on 16th May, 1996. In a complaint lodged in the Police Station, Jani, District Meerut, by the brother of Munish, Rishipal, his brother, father, mother and sister were alleged to have been involved in the death of Munish. On 27th May, 1996, Rishipal, his brother and father were arrested. On 28th May, 1996, they were remanded to judicial custody and lodged in the District Jail, Meerut. Rishipal was seen to be in good health on 31st May, 1996. On the next day, the petitioners received message that Rishipal had been taken ill and hospitalised in the Medical College, Meerut. On that day, Rishipal was visited by his uncle in the Medical College, Meerut and was found to be in the Emergency Ward. At 9.00 p.m. on Ist June, 1996 he was declared dead.

3. The report on the post-mortem examination of the body of Rishipal on 2nd June, 1996 by Dr. M.K. Arya and Dr. B.K. Bajpai is on record. It shows that Rishipal was about 32 years of age and had expired in the Medical College, Meerut at about 9.05 p.m. on Ist June, 1996. External examination of his body showed "bleeding present from nose and mouth. The right side of the thorax contained blood. The organs in the abdomen were found to be contused, to contain 700 ml of blood, and to be congested and contain 100 ml of blood respectively. Ante mortem injuries were found on the body thus :

"1. Multiple contusion in an area of 15 cm x 6 cm on back of Rt. wrist and hand.

2. Contusion 6 cm x 4 cm on medical (medical ?) aspect of Rt. ankle joint.

3. Contusion 5 cm x 3 cm on medical (medial) (?) aspect of left ankle joint.

4. Multiple contusions in an area of 18 cm x 7 cm on back of left forearm extending upto left hand.

5. Traumatic swelling 25 cm x 20 cm on front of abdomen."

The cause of the death was reported be "shock and haemorrhage as a result of ante mortem injuries."

4. The case of the petitioners, principally based upon the post-mortem report, is that Rishipal's death had occurred in judicial custody by reason of injuries then sustained. The petitioners state that Rishipal was working as a Supervisor with a contractor of Maruti Udyog Limited, Gurgaon and received emoluments in the sum of Rupees five thousand per month.

5. The affidavits filed in reply to the writ petitions make very interesting reading. The Senior Superintendent of the District Jail, Meerut, the third respondent, states that Rishipal did not have any injury at the time of admission to the jail. Rishipal had gone to the jail hospital on 31st May, 1996 and complained of "jaundice" and weakness, yellow urine and lack of appetite. He was admitted to the jail hospital and treated for jaundice. On the evening of 31st May, 1996, Rishipal started vomiting and was given treatment. The jail doctor referred him to the Medical College, Meerut where he was admitted at about 8.40 p.m. on 1st June, 1996. His condition did not improve "and he died as result of the jaundice and liver failure". The post-mortem examination of the dead body of Rishipal "was conducted by Dr. Mahesh Kumar Arya and Dr. B.K. Bajpai, Medical Officers of P.L. Sharma Hospital (District Hospital) Meerut. However, the post mortem proceedings were reportedly interrupted and influenced by the unruly crowd of hooligans claiming to be Kisan Union workers. The post mortem report is rather misleading which narrated the cause of death as 'shock and haemorrhage due to ante mortem injuries'. Considering the dispute about the cause of death raised by the relatives and workers claiming to be members of the Kisan Union, the District Magistrate, Meerut ordered a Magisterial Inquiry into the matter. The Inquiry was conducted by Shri Ravi Prakash Arora, Additional District Magistrate, Meerut, who has referred the documents for examination and opinion to some noted forensic science expert. An inquiry was also ordered into the matter by the Inspector General of Prisons, U.P. The inquiry was conducted by Shri Udit Singh, Deputy-I.G. (Prisons), U.P. who has also opined that proper inference about the cause of death can be ascertained only by the technical experts in the field of Medical Science. The further inquiry in the matter is yet to conclude." The affidavit adds that "there were no marks of any injury on the body of Rishipal. As per post mortem report there were marks of contusion on the ankle and hands of Rishipal and that was because of bandage cloth that was tied on Rishipal's wrist and legs while he was given oxygen as he was restless and throwing his legs and hands in a semi-conscious stage causing hindrance in treatment provided by doctors attending on him. This fact is stated by doctors in Magisterial and DIG (Prisons) inquiry report." The affidavit states "*that the post mortem report and cause of death as stated appears to be a concocted story.* The injury mention on the belly of

deceased can also be caused because of bursting of liver inside the body. At the time of post mortem reportedly there were nearly 60 to 70 crowd of villagers creating hue and cry who are said to have forced doctors to mention injury on belly of Rishipal." (Emphasis supplied). The affidavit concludes that "the matter of ascertainment of the actual cause of death is yet to be ascertained upon expert opinion. Appropriate orders may kindly be passed by this Hon'ble Court." Another affidavit in reply to the petitions is filed by O.P. Sagar, Sub-Inspector posted at the Medical College, Meerut, on behalf of the Senior Superintendent of Police, Meerut, the second respondent. He makes the affidavit as the Investigating Officer of the case. The affidavit is substantially similar to the affidavit referred to above and it adds that the medical record of Rishipal relating to the treatment administered to him and the post-mortem report were being sent to the Medical Board "for obtaining a definite opinion and report on the subject".

6. The report of the inquiry conducted by the Deputy Inspector General (Prisons), Uttar Pradesh is not produced by the respondents. The report of the Magisterial inquiry is not produced by the respondents. The statements made in the course of these inquiries, upon which reliance is placed in their affidavits, are not produced by the respondents. The report of the Medical Board to which the medical record and the post-mortem report were referred is not produced by the respondents.

7. We have before us instead the expert medical evidence of police officers. They tell us that Rishipal died of "jaundice and liver failure" and that the post mortem report which lists the cause of death as shock and haemorrhage due to ante mortem injuries is "rather misleading". They state that bandages tied to Rishipal's wrists and ankles because he was throwing his legs and hands about while in a semi-conscious condition caused the injuries referred to in the post-mortem report. The injuries on Rishipal's belly mentioned in the post-mortem report, according to that expert opinion, "can also be caused by bursting of liver inside the body". Upon the strength of such expertise, the deponent of one affidavit states that the post-mortem report and cause of death are "a concocted story".

8. If we may be permitted to use the same words, what appears to us to be a concocted story is that set out in the respondent's affidavits. They are, to our mind, desperate attempts to avoid responsibility for acts committed while Rishipal was in judicial custody. There can be no doubt that the respondents have not investigated the cause of death of Rishipal as they ought to have done or that, at any rate, they have not placed all relevant material before this Court. They have attempted to pull the wool over the eyes of this Court. We do not appreciate the death of persons in judicial custody. When such deaths occur, it is not only to the public at large that those holding custody are responsible; they are responsible also to the Courts under whose orders they hold such custody. It is appropriate, therefore, that the cause of Rishipal's death should be investigated by the Central Bureau of Investigation. The C.B.I. shall register a case and conduct an investigation into the circumstances of Rishipal's death. The C.B.I. shall forthwith appoint an officer to receive from the respondents all records relating to Rishipal and the respondents shall immediately hand over such records to such officer. The investigation shall be completed expeditiously and a copy of the investigation report shall filed in this Court. The Registry shall forward a copy of this judgment and order to the Director, C.B.I.

9. The State of Uttar Pradesh is responsible in public law for the death of Rishipal and must pay compensation to the petitioners for the same. [See *D.K. Basu v. State of West Bengal, 1997(1) S.C.C. 416*]. We think that it is appropriate, in the circumstances, to order the State of Uttar Pradesh to pay to the petitioners compensation for the death of Rishipal in the sum of Rupees five lakhs within three months. The sum shall be invested by the petitioners and the income thereof shall be so distributed that atleast half is utilised for the benefit of Rishipal's children during the period of their minority.

10. This direction to pay compensation shall be without prejudice to the rights of the legal representatives of Rishpal to claim compensation in private law proceedings, if so entitled in law, against those found responsible for this death.

11. We think that it is proper that the State of Uttar Pradesh should take disciplinary proceedings against those found responsible for Rishipal's death, and order accordingly.

12. Rule is made absolute in the aforesaid terms.

The State of Uttar Pradesh shall pay to the petitioners the costs of the writ petitions, quantified at Rupees ten thousand.

Petition allowed.