

SUPREME COURT OF INDIA

Soni Sori

Vs.

State of Chhattisgarh

W.P. (Crl.) No. 206 of 2011

(Altamas Kabir, H.L. Datu and Chandramauli Kumar Prasad JJ.)

20.10.2011

ORDER

1. This writ petition has been filed by one Soni Son and one Gautam Navlakha, inter alia, for the following reliefs:

a) For a writ of Mandamus, or any other appropriate writ, order or direction to the State of Chhattisgarh to produce in this Court all the FIRs and chargesheets with respect to the Petitioner No. 1 and Mr. Lingaram Kodopi,

b) For a writ of Mandamus, or any other appropriate writ, order or direction directing the setting up of a Special Investigation Team (SIT) comprising of officers from outside the State of Chhattisgarh to investigate and prosecute in respect of the FIRs and chargesheets involving the Petitioner and Mr. Lingaram Kodopi,

c) For a writ of Mandamus, or any other appropriate writ, order or direction directing transfer all cases pending against Petitioner and Mr. Lingaram Kodopi before any court in the State of Chhattisgarh to any competent court in Delhi."

2. Appearing for the Petitioners, Mr. Colin Gonsalves, learned senior advocate, submitted that in connection with certain allegations in relation to certain incidents at Dantewada in Chhattisgarh, the Petitioner No. 1 was arrested on 4.10.2011 in Delhi and was brought before the Duty Magistrate at District Court, Saket, Delhi on the same day. On 5.10.2011 she was produced before the Additional Chief

Metropolitan Magistrate, Saket, who transferred the case to the Additional Sessions Judge, Saket, to consider the Petitioner's prayer for grant of bail. The said petition was dismissed on 7.10.2011 and the matter was sent back to the Additional Chief Metropolitan Magistrate to take a decision on the application made by the Chhattisgarh Police for transit remand. Such prayer was allowed and the Petitioner No. 1 was handed over to the Chhattisgarh Police on the same day. Thereafter, the Petitioner No. 1 was removed to Chhattisgarh and was lodged in Raipur jail.

3. Mr. Gonsalves submitted that after being taken to Chhattisgarh the Petitioner No. 1 was produced before the Judicial Magistrate 1st Class, Dantewada, on 8.10.2011. The learned Magistrate directed police custody of the Petitioner up to 11.00 a.m. on 10.10.2011, inter alia, on the condition that under police remand she would not be physically tortured and that she would be medically examined by a Registered Medical Practitioner before being taken on police remand and before producing her in Court. The Petitioner No. 1 was remanded to the custody of the Sub-Divisional Police Officer, Kirandul, District-Dantewada. Mr. Gonsalves submitted that on 10.10.2011 the Petitioner No. 1 was not produced in Court and the reason given by the police was that while taking a bath in the morning, she had fallen and sustained injuries to her head and waist. Mr. Gonsalves pointed out that the medical report of the Dantewada District Hospital dated 10.10.2011 indicated injuries to the head and lumbar region of the Petitioner No. 1, along with a black mark on the plantar aspect of the middle finger which according to him was caused on account of electric shocks having been given to the Petitioner No. 1.

4. Mr. Gonsalves submitted that it was impossible for the Petitioner to have suffered the injuries simply by falling down in the bathroom while having a bath. On the other hand, it was the definite allegation made on behalf of the Petitioner No. 1 that she had been subjected to brutal police torture while in custody.

5. Apart from the writ petition, Mr. Gonsalves also pressed his application for directions, being Criminal M.P. No. 20493 of 2011, filed in the Writ Petition, for the following directions:

- a) For an order directing the State of Chhattisgarh to forthwith bring the Petitioner No. 1 to Delhi;
- b) For an order directing the State of Chhattisgarh to admit Petitioner No. 1 to AIIMS for medical treatment;

c) For an order directing the Director, AIIMS to submit a report to this Hon'ble Court regarding the health condition of the Petitioner No. 1;

d) For an order permitting Petitioner No. 2 along with a medical doctor of his choice and an advocate to meet Petitioner No. 1 privately and in the absence of the police or any other person in order that they may speak to the Petitioner No. 1 at length and so that the doctor may examine the Petitioner No. 1.

Mr. Gonsalves submitted that it was highly co-incidental that the day on which she was to be produced before the Magistrate from police custody that she fell in the bathroom and suffered injuries which, although said to be of a minor nature in the affidavit filed on behalf of the State of Chhattisgarh, prevented her production in the Court. Mr. Gonsalves submitted that in order to test the veracity of the statement made on behalf of the Chhattisgarh police, they could be directed to bring the Petitioner No. 1 to Delhi to be examined by an independent panel of doctors at AIIMS and the said panel of doctors could be directed to submit a Report to the Court after such examination. The said prayer was opposed by the State of Chhattisgarh on the ground that the Petitioner No. 1 herself had stated before the Magistrate that she had suffered the injuries having fallen down in the bathroom while taking a bath in the morning of 10.10.2011.

6. Having considered the submissions made on behalf of the respective parties and also according to the medical status of the Petitioner indicated in the Affidavit filed by the Petitioner No. 2, Shri Gautam Navlakha, the injuries sustained by the Petitioner No. 1 do not prima facie appear to be as simple as has been made out to be by the Chhattisgarh police.

7. We are, therefore, inclined to allow the prayer made in Criminal M.P. No. 20943 of 2011, but with modifications.

8. Accordingly, we direct Rule to issue on the Writ Petition. Since the State of Chhattisgarh is duly represented, service of the Rule is waived. The Respondent will be entitled to file its counter-affidavit to the writ petition within two weeks. Rejoinder, if any, may be filed within two week thereafter.

9. In the meantime, the State of Chhattisgarh shall have the Petitioner No. 1 taken to Kolkata and admitted in the Nil Ratan Sarkar Medical College and Hospital,

Kolkata, within a week from date. The Director and/or Superintendent of the Hospital shall have the Petitioner No. 1 examined by a panel of Doctors as regards the injuries said to have been sustained by her on account of the fall in the bathroom and, thereafter, to submit a Report to this Court on 15.11.2011. After her examination, by the panel of Doctors, the Petitioner No. 1 shall be taken back to Jagdalpur jail by the authorities of the State of Chhattisgarh.

10. Let a copy of this Order be made available to the learned Advocates of the parties dasti and also let a copy of the same be forwarded to the Director of the Nil Ratan Sarkar Medical College and Hospital, Kolkata, for compliance.