

MITHILESH KUMAR SINGH Vs. STATE OF RAJASTHAN
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LAWS(SC)-2014-12-45
Supreme Court Of India
Decided on December 11,2014

MITHILESH KUMAR SINGH

Appellant

VERSUS

STATE OF RAJASTHAN

Respondents

JUDGEMENT

T.S. Thakur, J. - (1.) I have had the advantage of going through the order proposed by my noble sister Banumathi J. I regret to say that I have not been able to persuade myself to agree to the dismissal of the writ petition which in my opinion raises sensitive issues touching not only the fairness of investigation in a case involving death of a young college student in suspicious circumstances but also whether the sordid episode was a result of ragging of the deceased by her senior colleagues which the college authorities failed to prevent despite being informed about the same. Given the circumstances pointed out by the Petitioner it may be premature for this Court to hold that the investigation conducted by the local police was fair or that the deceased jumped from the four storeyed college hostel to commit suicide as she was carrying an unwanted pregnancy. The Petitioner who is the unfortunate father of the deceased has attempted to point out certain deficiencies and contradictions in the findings of the investigating agency which in my opinion need to be investigated in a dispassionate attempt to discover the truth, by an outside agency like the CBI.

(2.) THE facts in the backdrop have been stated by my erudite sister in the order proposed by her. It will, therefore, serve no purpose to repeat them over again. That the deceased and her sister were admitted to the college as freshers is not in dispute. That she sustained injuries because of a fall from the fourth floor of the college hostel where she was staying with her sister is also not in dispute. That she was moved first to Dulet hospital and later to Sawai Man Singh hospital is also a fact not in dispute. That three days after her fall from the building she passed away is also admitted. What called for a fair and proper investigation was whether she fell because of ragging by the seniors as alleged by the Petitioner or she jumped to commit suicide. The case of the Respondents which includes the state of Rajasthan, the police and the college where she was studying, appears to be that she committed suicide because of an unwanted pregnancy which she was carrying. Reliance in support of that version is placed upon the medical record of the hospital, which appears to suggest that (a) she was 14 weeks pregnant and, (b) the pregnancy was aborted within

24 hours of her death. The record also suggests that the Petitioner had declined to consent to the removal of the foetus from the womb of the deceased despite being counseled about the consequences that would follow, should that procedure be not followed. From the medical record it appears that no removal of foetus was conducted by the doctors for want of consent by the father of the deceased. What is alleged is that the post mortem report does not establish in clear terms the presence of a pregnancy or a 14 week old foetus. This according to the Petitioner belies the story that the deceased was pregnant which could give her a possible reason to commit suicide. The Petitioner's case also is that a complaint about harassment by the ragging had been made to the college authorities who did not act in the matter. The Petitioner alleges that the deceased had remained unattended on the ground after the fall for about half an hour because of the negligence of the college authorities. There is also an allegation that although the deceased had sustained serious injuries which eventually proved fatal no complaint or report was lodged by the college authorities with the police. No statement or dying declaration of the deceased was recorded during the time she was in the hospital even though she was conscious and oriented. The medical record has been, according to the Petitioner, fabricated as the college is owned and run by influential people in the state of Rajasthan, apart from the fact that a senior doctor in the hospital is related to one of the Respondents. There are also allegations of the college authorities having pressurized the younger sister of the deceased not to disclose the true facts to anyone for otherwise she will face consequences. All told the Petitioner is totally dissatisfied and disillusioned with the investigation conducted by the State Police. That is why he prays for a fair and proper investigation into the episode to bring the truth to light so that justice is done not only at the stage of investigation but even at the trial which depends so much on the fairness of the investigation. Importance of a fair and proper investigation cannot be understated. In an adversarial system of administration of justice, fairness of investigation is the very first requirement for the fairness of a trial. A trial based on a partisan motivated, one sided, or biased investigation can hardly be fair. That is because while the trial itself may be procedurally correct, the essence and the purpose thereof may be vitiated by an unfair or ineffective investigation. This Court has in several pronouncements, emphasized the importance of the fairness of the investigation. Reference, in this regard, may be made to the decision of this Court in *Manu Sharma v. State (NCT of Delhi)* : (2010) 6 SCC 1 where this Court while dealing with the fairness of the investigation said: The criminal justice administration system in India places human rights and dignity for human life at a much higher pedestal. In our jurisprudence an accused is presumed to be innocent till proved guilty, the alleged accused is entitled to fairness and true investigation and fair trial and the prosecution is expected to play balanced role in the trial of a crime. The investigation should be judicious, fair, transparent and expeditious to ensure compliance with the basic rule of law. These are the fundamental canons of our criminal jurisprudence and they are quite in conformity with the constitutional mandate contained in Articles 20 and 21 of the Constitution of India.

(3.) IN *Nirmal Singh Kahlon v. State of Punjab* : (2009) 1 SCC 441, this Court held that fairness of investigation is important not only for the accused but even for the victim. This Court said: An accused is entitled to a fair investigation. Fair investigation and fair trial are concomitant to preservation of fundamental right of an accused Under Article 21 of the constitution of India. But the state has a larger obligation to maintain law and order, public

order and preservation of peace and harmony in the society. A victim of a crime thus is equally entitled to a fair investigation. ;

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