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IN THE HIGH COURT OF JUDICATURE OF CHHATTISGARH
AT BILASPUR

W.P.No. 153 Of 2002

WRIT PETITION UNDER ARTICLE 226 OF THE CONSTITUTION
OF INDIA

Petitioners

:

1. Mahendra Kumar Saluja
S/o. Late Shri Harnam Das Saluja
aged about 55 years
resident of High Court Road
(Gandhi Putla) Bilaspur
Tahsil & Distt. Bilaspur (C.G.).
2. Vinay Saluja
S/o. Shri Mahendra Kumar Saluja
aged about 32 years
resident of High Court Road
(Gandhi Putla), Bilaspur
Tahsil & Distt. Bilaspur (C.G.)

Versus

Respondents

:

1. State of Chhattisgarh
Acting through - Secretary
Home Department
Government of Chhattisgarh
Sachivalaya, Raipur (C.G.).
2. Superintendent of Police
District Korba (C.G.).
3. City Superintendent of Police
City Kotwali, Korba (C.G.).
4. Officers-In-Charge
City Kotwali Police Station
Korba, Distt. Korba (C.G.)
5. In-Charge
Rampur Police Chowki
Police Station City Kotwali
Distt. Korba (C.G.)

प. र. नं. 149/02
Presented by Shri J. G. G. G.
dated 16.11.02



WRIT PETITION UNDER ARTICLE 226 OF THE CONSTITUTION OF
INDIA FOR ISSUANCE OF APPROPRIATE WRIT/DIRECTION AND/OR
ORDER FOR REGISTRATION OF OFFENCE

AT 2

WRIT PETITION NO. 153 OF 2002

Mahendra Kumar Saluja & another

-Versus-

State of Chhattisgarh & others

ORDER post for 24.4.2002.



Sd/-
Fakhruddin
Judge

23.4.2002

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WRIT PETITION NO. 153 OF 2002

Mahendra Kumar Saluja & another

-Versus-

State of Chhattisgarh & others

Petitioners by Shri K.A.Ansari , Advocate.

Respondent -State by Shri Gautam Bhaduri, Govt. Advocate.

Shri C.P.Bhatt, Station House Officer, Kotwali, Korba, is also present.

ORDER

By Justice Fakhruddin.

1. Learned counsel for the petitioner submits that one Ritu, daughter of petitioner No.1 and sister of petitioner No.2 died on 26.10.2001 under suspicious circumstances. A report has been lodged to the police but due to inaction on the part of the police officers the investigation has not yet been completed and the culprits are enjoying liberty.
2. Learned counsel for the State submitted that a perusal of the diary shows that from January 2002 to March 2002 investigation was practically not

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done at all. The Station House Officer present in the Court was questioned about it. He submitted that earlier Shri P.C.Sonker was the S.H.O. posted at Kotwali, Korba. He submits that it is for him to explain. So far as he is concerned, he has taken the charge on 8.3.2002 and he also has not been able to look in this case.

3. The alleged offence against the applicant is regarding killing of his own wife. It is stated that on 26.10.2001 at about 9.15 a.m. the information was received by the petitioner No.1 on telephone that Ritu has just died because of the electrical shock which she received at 7.00 a.m. The petitioners along with other family members reached Korba on the same day at about 2.00 p.m. Annexure P/6 is copy of the report dt. 26.10.2001, which has been lodged by Vinay Saluja- Petitioner No.2. He also submitted a written report (Annexure P/7) to the Superintendent of Police, Korba on 29.10.2001 as also an application (Annexure P/8) to the Inspector General of Police, Bilaspur Range.

4. The investigation of the case for the offence as alleged, requires that it should be done seriously and expeditiously. Section 174 of the Code of Criminal Procedure has been amended it is pertinent to quote that section:

"174. Police to enquire and report on suicide, etc.-(1) when the officer incharge of a police station or some other police officer specially

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empowered by the State Government in that behalf receives information that a person has committed suicide or has been killed by another or by an animal or by machinery or by an accident, or has died under circumstances raising a reasonable suspicion that some other person has committed an offence, he shall immediately give intimation thereof to the nearest Executive Magistrate empowered to hold inquests, and, unless otherwise directed by any rule prescribed by the State Government or by any general or special order of the District or Sub-Divisional Magistrate, shall proceed to the place where the body of such deceased person is, and there, in the presence of two or more respectable inhabitants of the neighborhood, shall make an investigation, and draw up a report of the apparent cause of death, describing such wounds, fractures, bruises and other marks of injury as may be found on the body, and stating in what manner, or by what weapon or instrument (if any), such marks appear to have been inflicted.

(2) The report shall be signed by such police officer and other persons, or by so many of them as concur therein, and shall be forthwith forwarded to the District Magistrate or the Sub Divisional Magistrate.

(3) When – (i) the case involves suicide by a woman within seven years of her marriage; or

(ii) the case relates to the death of a woman within seven years of her marriage in any circumstances raising a reasonable suspicion that some other person committed an offence in relation to such woman; or

(iii) the case relates to the death of a woman within seven years of her marriage and any relative of the woman has made a request in this behalf; or

(iv) there is any doubt regarding the cause of death; or

(v) the police officer for any other reason considers it expedient so to do, he shall, subject to such rules as the State Government may prescribe in this behalf, forward the body, with a view to its being examined, to the nearest Civil Surgeon, or other qualified medical man appointed in this behalf by the State Government, if the state of the weather and the distance admit of its being so forwarded without risk of such putrefaction on the road as would render such examination useless.

(4) The following Magistrates are empowered to hold inquests, namely, any District Magistrate or Sub-divisional Magistrate and any other Executive Magistrate specially empowered in this behalf by the State Government or the District Magistrate."

Laxity on the part of the investigation not to do anything for three months has to be viewed seriously. The Station House Officer submitted some difficulty. Counsel for the State also submitted that the police are not fully equipped, they don't have requisite force and most of time is spent in maintaining law and order situation. Such cases like bridegroom are increasing day by day, most of the cases depend on circumstances and circumstances have to be collected by the prosecution independently as in most of the cases, especially in the case where the death is taken place in the in-law's house the difficulty arises because of the accusation and the persons who can be witnesses are close relatives of the husband.

5. Under the circumstances the investigation has to be prompt and fair. The doctors have equal duties. The medical reports in such cases are very material and the State would look all aspects and provide due facilities to the Station House Officers.
6. So far as the present case is concerned the Station House Officer has been advised to complete the investigation as early as possible preferably within one month from today. So far as the facilities are concerned, the Director General of Police and

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Principal Secretary, Home to examine and submit a report to the Registrar General of this Court within ~~two~~ ^{one} month ~~from~~ ^{by} today.

7. With the above observations this petition is disposed of finally.
8. Parties are entitled to certified copy. A copy of this order be supplied to the State Counsel.

Sd/-
Fakhruddin
Judge