

WP(C) 2380/2012

BEFORE

HON'BLE MR JUSTICE B. K. SHARMA

Heard Mr. P. K. Barman, learned counsel for the petitioners. Also Heard Mrs. H. M. Phukan, learned State Counsel.

The fact involved in this writ petition and as narrated in the order dated 20.06.2012 is as follows:

A road accident occurred at about 7.40 PM on 06.11.2009 near Bathowpuri Boro High School and the Gorchuk PS Case No. 195/2009 was registered in connection with the said accident. Smti Rupali Das and Sri Rajib Das, the wife and son respectively of the petitioner No.1 died in the road accident and when the petitioner went to lodge an FIR, he learnt that a case was already registered on the road accident on the basis of an FIR filed by one Chittaranjan Sonowal (respondent No.7), who falsely described that the two victims as his own wife and son.

After hearing of the fraudulent FIR of the respondent No.7, the petitioner gave a complaint to the OC of the Gorchuk Police Station on 18.11.2009 (Annexure-B) indicating that, the respondent No.7 has falsely claimed himself to be related to the two victims and accordingly requested the police for correction of the case records. The report(s) of the I.O. (Annexure-D and E) shows that the police have now shown the name of the victim Rajib Das as the son of the other victim Rupali Das as the wife respectively, of the petitioner No.

Coincidentally the mother of the victim Rupali Das (the mother-in-law of the petitioner No.1) have jointly filed this case for a direction on the respondents to correct the connected records of the accident and to enable the petitioners to receive the post-mortem report(s) and other documents, which are yet to be released to the genuine relation of the victims.

The petitioners have filed the instant writ petition for appropriate action by the police against Sri Chittaranjan Sonowal, who is respondent No.7. In spite of service of notice, the said respondent has not responded to the proceeding. In the counter affidavit filed by the respondent No.4, it has been stated thus:

3. That before adverting the para-wise reply the deponent begs to state that the charge of the instant case of Garchuk P.S. Case No. 195/2009 U/S 279/338/304(A) in connection with the WP(C) No. 2380/2012 was submitted vide charge sheet No. 33/2010 dated 31.03.2010 when the case vide No. 195/2009 was registered, SI Bima Roy and the Officer In Charge of Garchuk Police Station and SI Manoj Lahakar was the In Charge, Traffic of Garchuk Police Station. In the instant case, the preliminary steps were taken up by ASI Nakul Ch. Deka and SI Manoj Lahakar completed the investigation and submitted charge sheet of the case. It has been found that the Inspector of Police, Traffic, Pandu Division, Sri Babul Ch. Nath supervised the case and suggested the Investigating Officer, SI Manoj Lahakar to submit charge sheet against the accused driver in connection with the case of Garchuk PS 195/2009. Accordingly the charge sheet was submitted vide C.S. No. 33/2010 dated 31.3.2010 U/S 279/388/304(A) IPC.

5. That with regard to the statements made in paragraph 2 of the writ petition, the deponent begs to state that as per MCD No.1 dated 6.11.2009, the accident did occur at around 7.00 PM and the names of the victims were recorded as Rupali Sonowal, Rajib Sonowal and Sunu Boro. As per the case diary, the victims were sent to the GMCH by ambulance.

8. That with regard to the statements in paragraph 5 of the writ petition, this deponent begs to state that as per case diary, one Chittaranjan Sonowal, S/O Sri Kinaram Sonowal resident of Pandhoa, Village, P.S. Tengakhat, Dist- Dibrugarh, lodged an ejahar on 7.11.2009 stating that in the evening at about 7.00 p.m. on 6.11.2009, his wife Rupali Sonowal, aged about 30 years, and his son, Rajib Sonowal, aged about 7 years, who were with Smti Sunu Boro, aged about 25 years, were knocked down by the driver of the cruiser vehicle no. AS-27/C-0079. The driver of the vehicle was allegedly driving in a rash and negligent manner while the victims were moving from Kotahbari Road towards the Delhi Public School and the driver of the vehicle after knocking them in front of Bathowpuri High School, fled away from the scene. As a result, all the three were grievously injured and sent to the GMCH by 108 ambulance for treatment. But, his wife and son succumbed to

their injuries on way and the doctor declared them death on way. Smti Sunu Boro was admitted to the GMCH for treatment. As such, the complainant Sri Chittaranjan Sonowal prayed for action against the driver of the vehicle. On receipt of the FIR lodged by Chittaranjan Sonowal, a case was registered vide Garchuk P.S. Case NO. 195/2009 U/S 279/338/34(A) IPC on 7.11.2009.

9. That with regard to the statements made in paragraph 6 of the writ petition, the deponent begs to state that the names of the victims in the post mortem report and the Forensic Medicine Department were recorded as Rupali Sonowal and Rajib Sonowal as per the case diary.

10. That with regard to the statements made in paragraphs 7, 8 and 9 of the writ petition, the deponent begs to state that after going through the case diary and the records of Garchuk P.S., it has been found that there is no record of lodging ejhar by the petitioner Nareswar Das on 18.11.2009 though on the case diary No.III, dated 20.11.2009, ASI, N.C. Deka who took the preliminary step, had accepted the photocopy of the affidavit submitted by the petitioner, Nareswar Das and he stated in the case diary that it was attached with the case diaries. But no such photocopy of the affidavit has been found in the duplicate cases diary in which the initial I.O. had accepted Nareswar Das as the legal guardian of the deceased victims as per the affidavit submitted by the petitioner Nareswar Das.

12. That with regard to the statements made in paragraph 20 of the writ petition, the deponent begs to state that the ejahar lodged by Chittaranjan Sonowal was accepted and registered vide Case No. 195/2009. Regarding lodging of FIR by the petitioner Nareswar Das, no records have been found in the case diary and in the police Station.

14. That the deponent further begs to state that an enquiry was conducted by the office of the deponent and during enquiry, Smti Sabitri Boro the mother-in-law of Nareswar Das was examined. She has stated that her daughter Rupali Boro was married to Nareswar Das and gave birth to three children two sons and a daughter. At the time of the motor accident her son-in-law, Nareswar Das was away from the family. As she is poor and illiterate, Chittaranjan Sonowal lodged the FIR claiming Rupali Boro as his (Chittaranjan Sonowal) wife. ASI Nakul Ch. Deka, who took the preliminary steps of the case, issued Form No.54 to Nareswar Das rectifying the names. However, SI Manoj Lahkar, who submitted the charge sheet of the case committed an omission when he did not intimate the Department of Forensic Medicine, Guwahati Medical College to rectify the errors. However, the present O.C., Garchuk Police Station has been directed to take necessary actions for rectification of the names in the records of the Department of Forensic Medicine, Guwahati Medical College and in the post mortem report.

From the above stand of the respondents what is seen is that the present O/C Garchuk Police Station has already been directed to take necessary action for correction of the names in the relevant records. However, as submitted by Mr. P. K. Barman, learned counsel for the petitioners and as agreed to Mrs. H. M. Phukan, learned State Counsel, only rectification of mistakes will not be an end to the matter, but the police will have to carry out investigation on the respondent No. 7 as to how he had identified himself as the husband of the deceased and father of the minor boy who also died in the accident.

The writ petition is disposed of directing the respondents that apart from rectification of the mistakes in the relevant documents, that will also carry out required investigation in the matter in respect of the wrong identity disclosed by the respondent 7 and accepted by respondent No.6.