

**IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P.(PIL) No.919 of 2021**

Court on its own motion

Versus

The State of Jharkhand and Others **Respondents**

**CORAM : HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE SUJIT NARAYAN PRASAD**

For the State : Mr. Rajiv Ranjan, Advocate General

Oral Order

Order No.03 : Dated 18th March, 2021

With consent of the parties, hearing of the matter has been done through video conferencing and there is no complain whatsoever regarding audio and/or visual quality.

Reference may be made to the order dated 04.03.2021 by which this Court has taken *suo moto* cognizance of the incident based upon the newspaper publication dated 03.03.2021 reporting therein that Village Council has sentenced "witches" to death and five persons of a family have been killed including five year old minor in Buruhatu-Amtoli Pahar, Gumla.

We, therefore, had directed the Principal Secretary, Department of Home, Government of Jharkhand and the Principal Secretary, Social Welfare Department, Government of Jharkhand as well as the Director General of Police, Jharkhand, Ranchi to come up with their respective affidavits regarding the occurrence and the action they have already taken or they propose to take so that such type of incident could be avoided.

Learned Advocate General appearing for the State of Jharkhand has apprised that in terms of the order dated 04.03.2021, affidavits have been filed. It also appears from the record that enquiry has been conducted by the JHALSA and to that effect enquiry report has been submitted.

We have gone through the enquiry report of JHALSA dated 16.03.2021 which discloses that the Secretary, District Legal Services Authority, Gumla had visited the place of occurrence and on enquiry from the local villagers came to know that no one is alive in the family save and except one daughter namely Anjana Topno. The villagers have not disclosed anything and remained quiet in spite of repeated questions put to them. The team has interacted with one Balmukund Singh, Sub-Inspector, Kamdara who had disclosed that on 24.02.2021 when he went to the place of occurrence along with the escort party, found at the main gate of the house of place of occurrence, the dead body of Josphin Dahenga, aged about 55 years, while inside the house in a room found the dead body of Nikodin Topno, son of Late Joseph Topna, aged about 60 years, in another room found three dead bodies one of Bhinsent Topno, son of Nikodin Topna, aged about 32 years, Silwanti Topno, wife of Bhinsent Topno, aged about 30 years and Albin Topno, son of Bhinsent Topno, aged about 5 years. It has been reported that none of the villagers have uttered anything about the incident but after taking some villagers in confidence, the DALSA team has been apprised that the deceased Nikodin

Topno and his deceased wife Josphina Dahanga have been charged as 'Daain' by the villagers because prior to the incident two person died and some fell ill so few of the villagers made an opinion that due to Jaddu Tona this is happening in the village. It has further been reported that 10 accused persons namely, 1. Sunil Topno @ Kono Topno, 2. Soma Topno, 3. Salim Topno, 4. Firangi Topno, 5. Filip Topno, 6. Daniel Topno, 7. Amrit Topno, 8. Sawen Topno, 9. Bibi Kumari and 10. Firu Lohra have been remanded in the case. It has further been reported that efforts for victim compensation is being taken for only dependent of the deceased persons in this case namely, Anjana Topno, which is under process. Regarding rehabilitation of the victim Anjana Topno correspondences have been made with the concerned department.

Affidavit has been filed by the Principal Secretary, Department of Home, Prison and Disaster Management on 17.03.2021, sworn by the Principal Secretary himself stating *inter alia* therein that in compliance to the order dated 04.03.2021 the concerned Secretary has called for a requisite report from the Director General of Police, Jharkhand and Additional Director General of Police, C.I.D., Jharkhand, Ranchi. It has been reported that earlier the Crime Investigation Department, Jharkhand, Ranchi had issued certain guidelines with respect to campaign in order to prevent crime of multiple murder in the name of Witch (Daain-Bisahi) vide memo no. 93 dated 08.02.2016 which was circulated to

the Senior Superintendent of Police/Superintendent of Police of all the districts including Superintendent of Police, Rail. Further, the guidelines have been issued to the Deputy Commissioners, Senior Superintendent of Police/Superintendent of Police and copy of Director General of Police, Jharkhand, Ranchi and Additional Director General of Police, C.I.D., Jharkhand, Ranchi for preventive measures, punitive measures and remedial measures of incidents taking place in the name of Witch practices in the State of Jharkhand. Further, the guidelines have also been issued by the Department of Home vide letter no. 1545 dated 16.03.2021 which covers the preventive measures, punitive measures as well as remedial measures regarding the incidents which take place in the name of Daain which includes the wide publicity of the material and awareness among the people at different places through various sources which may help in preventing the occurrence in the name of Daain.

Another affidavit has been filed by the Women, Child Development and Social Security Department, duly sworn by the Under Secretary of the Department *inter alia* stating that the Department of Women, Child Development and Social Security has issued a direction vide circular no. 566 dated 05.03.2019 which deals with the Eliminations of Witch Practices as also the conducting of awareness programme in the year 2017 through Prasar Bharti by the Department for elimination of witch practices. The Department has allotted the

budgetary fund in each year to all 24 districts for the programme of Eliminations of Witch Practices. Total amount to the extent of Rs.1,08,00,000.00 has been allotted to all 24 districts for the programme during the current financial year. Further, the Department has directed vide its letter no. 531 dated 12.03.2021 to all 24 Districts Social Welfare Officers to comply the direction regarding Eliminations of Witch Practices. It has also been stated that following awareness activities/programmes have been scheduled during the current financial year i.e. –

- (i) Awareness generation through mike and audio video visuals at Weekly Local Market/Hat/Bazar.
- (ii) Awareness camps organized at Anganwadi Centres.
- (iii) Awareness Camps organized at Schools.
- (iv) Awareness activities vide poster, painting, wall writing at Anganwadi Centres / Schools / Panchayat Secretariat.
- (v) Displaying Hoardings at public places like Chowk Chowraha, prominent places, Bus Stand, Railway Station etc.
- (vi) Awareness cart drive.
- (vii) Other activities like flex, Nukad Natak, Hand Bill Distribution, Jhanki, Prabhat Pheri and others.

Another affidavit has been filed by the Director General of Police, Jharkhand, Ranchi therein it has been stated that the Senior Superintendent of Police/Superintendent of Police

(including Rail) of the district are nominated as the nodal officer whereas Deputy Inspector General of Police, C.I.D. is nominated as the nodal officer for the C.I.D., Jharkhand. It has further been stated that all the Senior Superintendent of Police/ Superintendent of Police (including Rail) of the district have been directed to mark the sensitive places and appoint responsible officer to conduct regular meeting and supervise the situation regularly. It has been stated that in order to eliminate witchcraft special vigilance of the matter is to be conducted by procuring necessary information and the concerned officer-in-charge of the Police Station will without any delay report the same to the Superintendent of Police and for any expected action necessary guidelines will be issued by the senior officers. It has further been stated that the local priest will be identified and personal bond will be executed to insure that appropriate preventive measures are taken right at the inception as also in every district a help-line number will be set up on which the information regarding witchcraft violence can be reported which will be immediately looked into for early redressal of grievance.

One another affidavit has been filed on behalf of the respondent duly been sworn by SDPO, Basia, Gumla wherein the fact about incident has been narrated as also ten persons have been caught hold of who are now in judicial custody. Though FIR has been instituted against the unknown but on the basis of the statements made by one villager Mathura

Mahato @ Bhagat whose complicity has surfaced in a videography and who happens to be the Bhagat of the area and on whose disclosure the persons have been killed. Subsequently, statement of Mathura Mahto @ Bhagat under Section 164 Cr.P.C. has been recorded. The incriminating articles which were used in the murders have been seized and sent to the Forensic Science Laboratory.

This Court, after going through the report submitted by JHALSA, has found that the incident of murder of five members of a family took place on the allegation of practice of witchcraft.

It further transpires from the affidavit filed by the respondent authorities that no previous action to combat the witch practices in the State of Jharkhand has been referred in the affidavit, rather the action has been shown to be taken only after the incident took place and when this Court has passed order on 04.03.2021.

It is very unfortunate that the Prevention of Witch (Daain) Practices Act, 1999 has been in operation since the year 1999 and the same has been adopted by the State of Jharkhand but concrete steps have not been taken to achieve the object and intent of the Act, 1999.

The Prevention of Witch (Daain) Practices Act, 1999 (hereinafter referred to as the Act, 1999) has been enacted as Bihar Act No.9 of 1999 to provide effective measures to prevent the witch practices and identification of a woman as a witch and their oppression mostly prevalent in Tribal areas and else-

where in the State of Bihar and to eliminate the woman's torture, humiliation and killing by the society and for any other matter connected therewith or which are incidental thereto.

The Act, 1999 provides to combat the situation by awakening the people living in the remotest area but it seems from the affidavits filed by the respondents that no reference of any action of the State respondents for elimination of the witch practices to achieve the intent and object of the Act, 1999 has been made. So many steps have been shown to be taken only after the incident took place that too after the order passed by this Court on 04.03.2021, however, we are not happy with the affidavits filed by the State respondents. Therefore, we are issuing following directions :-

- (i) The State is directed to apprise this Court as to how the State is proposing to proceed in order to combat the situation?
- (ii) What steps have been taken in pursuance to the provision of Act, 1999?
- (iii) How much funding has been made for the purpose to achieve the intent and object of the Act, 1999?
- (iv) The State is to apprise how to implement the object and intent of the Act and how it is to be regulated to combat the situation.
- (v) So far as this particular case is concerned, as has been brought to the notice of this Court that the incriminating arms/instruments used in the murders have been seized as also the Chappal and Shirt with blood stains have been seized

by the investigating agency and it has been sent to the Forensic Science Laboratory, therefore, the Forensic Science Laboratory is directed to apprise this Court about the status of the report.

(vi) Further, the State is also directed to apprise this Court that, in view of the traumatic fact that the entire family members have been killed/murdered save and except one minor daughter, how it is thinking to secure the property of the victim family and what are its plan for helping the surviving minor regarding her safety and future living. The same be brought to the notice of this Court along with the details of the property.

Since we have directed the JHALSA to conduct an enquiry taking into consideration the fact and the accountability of the Legal Services Authority towards the people in general, therefore, we are directing the JHALSA to apprise this Court about the vision to combat the situation by assisting the State in combating the situation and to achieve the intent and object of the Act, 1999.

The JHALSA is also to apprise that :

- (i) In how many Schools, Legal Cadet Corps have been established and how many Legal Clinics are functioning in the State;
- (ii) What is the plan to create School Legal Cadet Corps as also Legal Clinics in the district level ;
- (iii) To apprise this Court about vision/idea to deal with this evil.

In the larger interest to combat this situation which is a serious social evil, we also seek advice/opinion and the participation of the learned members of the Bar both in the High Court level as also in the district level, therefore, the Chairman of the State Bar Council and the President of the Advocates' Association, Jharkhand High Court are requested to appear on the next date to assist this Court in the matter.

We further direct the learned Advocate General of the State of Jharkhand to file a detailed affidavit duly been sworn by the Principal Secretary, Department of Home, Prison and Disaster Manager and the Secretary, Women, Child Development and Social Security Department.

Mr. Manoj Tandon, learned counsel, who is on the board is hereby directed to appear for the JHALSA and file an affidavit answering the queries as indicated hereinabove.

List this case on 08.04.2021 side by side W.P.(PIL) No.3684 of 2015 which has been mentioned by Ms. Suchitra Pandey, learned counsel, before this Court today.

(Dr. Ravi Ranjan, C.J.)

(Sujit Narayan Prasad, J.)