

REPORTABLE

IN THE SUPREME COURT OF INDIA

CRIMINAL ORIGINAL JURISDICTION

Writ Petition (Criminal) No. 23 of 2008

In Re. : Incident relating to CrI. Intimidation
to a member of CAT

... . Petitioner(s)

Versus

Union of India & Ors.

... . Respondent(s)

J U D G M E N T

Dr. B.S. Chauhan, J.

1. This case is an eye opener as it reveals that those who have been assigned the solemn duty to dispense justice are facing criminal intimidation at the hands of the authorities which have the responsibility to maintain the law and order.

2. The facts and circumstances giving rise to this petition are that Shri B.V. Rao, Judicial Member of Central Administrative Tribunal (hereinafter called 'CAT') was asked by the Hon'ble Chairman of the CAT to hold the Circuit Court at Ranchi, Jharkhand from 18.2.2008 to 22.2.2008. After receiving intimation from Principal Bench CAT, New Delhi, the officer concerned at Ranchi Bench asked for reservation of accommodation for Shri B.V. Rao to the Secretary to the Government of Jharkhand

in the Home Department. In consequence thereof the DIG (Personnel) was asked for reservation of two suites for two members of CAT in the Khukhari Guest House. Room no. 206 in that guest house was allotted to Shri B.V. Rao. The said room was occupied by Shri B.V. Rao on proper authorization and allotments. When Shri B.V. Rao came back from the Tribunal to the Guest House on 21.2.2008 at about 4.30 p.m., Smt. Nirmala Choudhary, Inspector General of Police (R-3) interrogated him as to in what capacity he was staying there? In spite of disclosing his identity by Shri B.V. Rao and informing her about the purpose for which he had come there, she left the room. After a short while, at about 5.15 p.m., eight police personnel, who were in uniform and having arms, forcibly opened the door of his room after breaking the bolt. They abused Shri B.V. Rao and searched the entire room. They did not even spare to examine the judicial records of CAT. Those police persons dragged Shri Rao to the ground floor along with his belongings where Smt. Nirmala Choudhary (R-3) was standing. She forced him to open his suit case, brief case and all other belongings. She had taken away his identity card, flight ticket, tour programme sheet and authorization letter granted by the Chairman for holding the court at Ranchi besides he was criminally intimidated and abused.

3. Immediately, after the incident, Shri B.V. Rao informed the Director General of Police (hereinafter called 'DGP'), Jharkhand about the incident on the same day. The DGP directed Shri P.R.K. Naidu, IG, Special Branch to look into the matter and report immediately. After conducting the enquiry, Shri P.R.K. Naidu, IG submitted his report on 22.2.2008. According to the said report, Smt. Nirmala Choudhary (R-3) was

not in a right frame of mind and suffering from some kind of schizophrenia. The armed persons who were on duty along with her had carried out her illegal orders. On the next day, the DGP along with other senior officers met Shri B.V. Rao in his room and apologized personally for grave inconvenience caused to him due to unpardonable behaviour of senior police officer disclosing that Smt. Nirmala Choudhary (R-3) was suffering from mental disorder.

4. However, considering the incident of 21.2.2008, an FIR was lodged in Doranda Police Station by Shri Bandi Bhagat, Office Incharge, CAT, Ranchi giving full details of the incident. Thus, an FIR in Case No. 43 dated 22.2.2008 under Sections 143, 144, 146, 323, 339 and 352 IPC stood registered against Smt. Nirmala Choudhary (R-3) and eight police persons. In the meanwhile, Shri B.V. Rao, Judicial Member of CAT wrote letter to Hon'ble the Chief Justice of India and Hon'ble Chairman of CAT, Principal Bench, New Delhi narrating the entire incident and requested to take appropriate steps to protect the members of CAT in future to avoid such unfortunate situation. The said letter was treated as a criminal writ petition. This Court, vide order dated 3rd March, 2008 issued notices to Union of India, State of Jharkhand and Smt. Nirmala Choudhary (R-3).

5. The Hon'ble Chairman of CAT, New Delhi took up the matter with the Hon'ble Minister of State, Ministry of Personnel Grievances and Pensions by writing a letter dated 25th February, 2008 expressing his grave concern about the safety and security of judicial and administrative members of CAT giving details of the incident. On 10th

March, 2008, the High Court of Jharkhand initiated the criminal contempt proceedings suo motu. In WP (C) No. 1233 of 2008 (Court on its own Motion vs. The State of Jharkhand) the Court passed the order dated 2/3.3.2008 asking learned Advocate General to look into the matter and to take immediate appropriate action in the case. However, considering the fact that this Court had taken cognizance of the incident, the High Court deferred the hearing of the said case vide order dated 10.3.2008.

6. The CAT, Patna Bench also initiated criminal contempt proceedings in case No. 22 of 2008 against Smt. Nirmala Choudhary (R-3) and eight armed police personnel vide Order dated 22.4.2008. The said matter is still pending consideration. However, on the letter written by Hon'ble Chairman of the CAT, no action has been taken by the Ministry concerned till today. Ample opportunities had been given to the respondents in this criminal Writ Petition to file their affidavits. The State of Jharkhand and Smt. Nirmala Choudhary (R-3) have filed their respective replies. But Union of India (R-1) did not file the reply. The State of Jharkhand (R-2) through its Home Secretary, Shri Sudhir Tripathi has admitted that there had been proper reservation for Shri B.V. Rao, learned member of CAT in the said guest house. However, the incident occurred because Smt. Nirmala Choudhary (R-3) was not in a right frame of mind and was suffering from schizophrenia. The armed constables along with her, obeyed her illegal orders and intimidated Shri B.V. Rao. Smt. Nirmala Choudhary (R-3) had acted in haste under the effect of mental disorder. She had been examined medically immediately, after the incident at Ranchi as well as at Bangalore and it has been

diagnosed that she was under "delusion disorder in partial remission". It has been assured by the State Government that it would take all steps in accordance with law in the case arising out of the said incident.

7. The State of Jharkhand (R-2) had admitted that every allegation and averment made by Shri B.V. Rao was factually correct and Smt. Nirmala Choudhary (R-3) had not only misbehaved with Shri B.V. Rao but scolded Mess Incharge also who was present there and asked him to leave the place immediately or else he would be sent to jail. It is further admitted that the other eight security personnel misbehaved with Shri B.V. Rao and the said security personnel had been put under suspension.

8. A certificate of Ranchi Institute of Neuro-Psychiatry and Allied Sciences (RINPAS) dated 3rd March, 2008 has been placed on record according to which Smt. Nirmala Choudhary (R-3) suffered from "psychosis Paranoid Delusional Disorder".

9. Smt. Nirmala Choudhary (R-3) has filed the affidavit dated 15th November 2008 in reply and tendered absolute and unconditional apology for the incident. It has been further stated that she was suffering from mental disorder. Therefore, she could hardly remember the actual incident which had taken place. Thus, she had done nothing intentionally. In para 14 of her affidavit, she has stated as under :

"That it is most humbly submitted that on account of her mental imbalance and delusionary frame of mind the deponent had no control over her power of reason or over her behaviour particularly when confronted with strangers"

10. She has also placed several letters and press clippings showing that she had

always been asking for her personal security apprehending the risk to her life though it might be because of her mental imbalance.

11. Shri U.U. Lalit, learned senior counsel, appearing as Amicus Curiae, has brought to the notice of this Court, the repeated incidents of abuses and criminal intimidation with the members of the CAT and placed the facts of the connected Writ Petition No. 74 of 2007 wherein the unfortunate incident occurred at the residence of Ms. Sadhana Shrivastava, a Judicial member of CAT, Patna Bench by the gangsters wherein one person also lost life. However, we are not taking note of the facts of the said case, as the said case is to be decided separately and has been delinked from this case. However, it is evident that all is not good so far as the safety and security of the Members of the CAT are concerned. Shri Lalit submitted that in the present case, a superior officer of the police has intimidated the judicial member of CAT though she might be suffering from mental disorder. However, there had been no response by the concerned Ministries in the Union of India to the letter written by the Hon'ble Chairman of CAT dated 25th February 2008 giving reference to his earlier letter dated 6th June, 2007 asking for providing security to the Chairman and Members of the CAT, this Court must ensure that proper security be provided to the Members of the CAT so that they may be saved from any untoward and unsavoury incident in future. It is an obligation on the part of the State authorities and all other concerned persons to provide a conducive atmosphere for dispensation of justice.

12. Learned counsel appearing for the State of Jharkhand has assured the Court that

State Government would ensure safety of all the Members of CAT so that such incident may not be repeated.

13. Mr. Naresh Kaushik, learned counsel appearing for the Union of India has submitted that in view of the prevailing circumstances, the Union of India and respective State Authorities are under the obligation to provide not only the minimum courtesy but also adequate security to all the Members of the CAT.

14. Shri Raju Ramachandran, learned senior counsel appearing for Smt. Nirmala Choudhary (R-3) has submitted that whatever unfortunate incident had happened, it was unintentional and because of the fact that she (R-3) was suffering from mental disorder. She is facing proceedings for criminal contempt initiated by CAT, Patna. He has also suggested that proper security to all the Members of CAT is required to protect them from any kind of humiliation and intimidation.

15. We have considered the submissions made by learned counsel for the parties and perused the records. Allegations of criminal intimidation and humiliation of Shri B.V. Rao at the hands of Smt. Nirmala Choudhary (R-3) and eight other police personnel along with her, cannot be said to be without any substance. As the State of Jharkhand (R-2) had conducted a full-fledged enquiry and submitted the report and, considering the fact that the writ petition and criminal contempt petition are pending in Jharkhand High Court and in CAT Bench at Patna, we do not consider it proper to express any opinion as to what action is required to be taken against the erring officers in respect of the said incident. The concerned Court/Tribunal would proceed

in accordance with law and undoubtedly the cases would reach to their logical ends. It is, however, clarified that any observation made herein above, would not prejudice the case of either party. It is for the State Authorities to decide as to whether Smt. Nirmala Choudhary (R-3) is fit to render any service to the State and if so, in what capacity.

16. However, considering the fact-situation of this case and other existing exceptional circumstances and taking into account the suggestions made by the learned counsel appearing for the Union of India and for the State of Jharkhand, it is directed that the Union of India and respective States would provide minimum courtesy required and adequate security to all the Members of the CAT, within a period of eight weeks from today. Necessary instructions be issued to all the authorities/persons concerned under the control of State Governments and Union Territories.

17. Before parting with the case, we express our thanks and gratitude to Shri U. U. Lalit, learned Senior Advocate for rendering assistance to the Court as Amicus Curiae.

18. A copy of this judgment be sent to the Registrar, CAT, Principal Bench, New Delhi for taking appropriate steps for implementation of directions issued herein.

19. The writ petition stands disposed of accordingly.

..... C J I .
(K.G. Balakrishnan)

.....J.
(P. Sathasivam)

.....J.
(Dr. B.S. Chauhan)

New Delhi;
August 25, 2009.

