

**THE HON'BLE SRI JUSTICE CHEEKATI MANAVENDRANATH ROY
AND**

THE HON'BLE SRI JUSTICE TARLADA RAJASEKHAR RAO

WRIT PETITION NO.4480 OF 2023

ORDER:- *(Per Hon'ble Sri Justice Cheekati Manavendranath Roy)*

This writ petition for Habeas Corpus is filed seeking direction to respondents to produce the husband of the petitioner by name Bantakunta Raghu, aged about 33 years, who is found to be missing, before the Court and then to set him at liberty.

2. Heard learned counsel for the petitioner and Sri Y.N. Vivekananda, learned Government Pleader attached to the office of learned Advocate General appearing for the respondents.

3. Brief facts of the case may be stated as follows:

The petitioner is the wife of a person by name Bantakunta Raghu. Her husband Bantakunta Raghu was found missing from 22.02.2022 night. It is stated that as there was an altercation between the husband of the petitioner and his grandfather Venkanna with regard to purchase of new cell phone, that her husband left the house on his motorcycle on that night and there after his whereabouts are not known and he is found missing. Therefore, the petitioner has lodged a report with the police. The Mantralayam police initially registered the said report as a case in

Crime No.15 of 2022 dated 24.02.2022 as “Man missing”. Thereafter, they did not trace the said person and his whereabouts are also not known.

4. As there is no progress in the investigation, it is stated that the petitioner has approached the 4th respondent-Station House Officer of Mantralayam Police Station, on several occasions, to find out the progress in the investigation and as to whether whereabouts of her husband are traced or not. It is stated that there is no proper response from the 4th respondent.

5. Therefore, the petitioner has filed W.P.No.26275 of 2022 before this Court, seeking production of her husband before the Court. After filing the said writ petition, police arrested three (03) persons and produced them before the concerned Magistrate, who remanded them to judicial custody. Thereafter, police have altered the section of law in the said crime to Section 367 and 323 r/w 34 of the Indian Penal Code, 1860 (for short “I.P.C.”).

6. However, the police did not find out the whereabouts of the husband of the petitioner. So, the present writ petition has been filed by the petitioner seeking direction to the respondents to produce her husband by name Bantakunta Raghu before the Court and to set him at liberty.

7. The writ petition was filed long back in the month of February, 2023. When the matter was listed before us on 26.06.2023, we have noticed that there is no considerable progress in the investigation and also noticed the inability and inefficiency of the police in tracing the husband of the petitioner and to find out his whereabouts. This Court after considering the material on record, entertained a doubt whether he was still alive or not. Therefore, on 26.06.2023, this Court passed the following order:

“On the report lodged by the petitioner that her husband was found missing, initially an F.I.R was registered as man missing case. As per the counter-affidavit that was filed by the State, it is stated that he got an illegal intimacy with one women by name Besta Lakshmi and that her three brothers by name Besta Raghu, Besta Ramakrishna and Besta Gururaju, attacked him and caused injuries to him and that thereafter the F.I.R. was altered from man missing to commission of offences punishable under Sections 323, 367 r/w 34 of the Indian Penal Code, 1860 (for short “I.P.C”) against the said three persons showing them as A-1 to A-3 and that they were arrested in connection with the said crime and they were remanded to judicial custody.

However, till now they could not trace the whereabouts of the said person. Now, learned Government Pleader would submit, on instructions, that the police are suspecting that he is no more. If that be the case, a crime under Section 302 of I.P.C. has to be registered and investigated. The aforesaid events that are brought to the notice of the Court and the counter-affidavit that was filed clearly indicates the casual approach that the police are adopting in a serious matter, where it is suspected that the said missing person was murdered. The Court seriously deprecates the conduct of the police in dealing with the case in a casual manner. No case under Section 302 of I.P.C. was also registered till now.

Therefore, learned Government Pleader is directed to file a detailed affidavit narrating the events and making it clear whether the said person is alive or not and if not why a case

under Section 302 of I.P.C was not registered. The said affidavit has to be filed by the next date of hearing.

The 4th respondent-Station House Officer of Mantaralayam Police Station, who is investigating the case, shall attend the Court on that day to explain the stage of the investigation.”

Thus, this Court has directed the 4th respondent-Station House Officer, Mantralayam Police Station, who is investigating the case, to attend the Court and to explain the stage of the investigation.

8. Today, he is present before the Court. An additional affidavit in the form of additional counter-affidavit is filed before this Court. It is stated that the Superintendent of Police, Kurnool District has now supplanted the present Sub-Inspector of Police, who is investigating the case and has appointed the Deputy Superintendent of Police, as Investigating Officer to investigate the crime. It is further stated that the further investigation revealed that the husband of the petitioner by name Bantakunta Raghu was murdered by three (03) brothers of the concubine of the said Raghu, namely Besta Raghu, Besta Ramakrishna and Besta Gururaju. Therefore, it is stated that the Section of law is now altered to Section 302 of I.P.C. and the crime is being investigated. It is stated that the dead body of the deceased is now exhumed and the same was sent to the Forensic Science Laboratory for analysis and the report is awaited.

9. Therefore, learned Government Pleader would contend that the husband of the petitioner is now no more and he was murdered and the Section of law is also altered and the same is being investigated and a charge sheet would be filed after receiving the analyst report. He would submit that the major part of the investigation is now completed and only R.F.S.L. report is awaited for filing charge sheet. He would also submit that the Superintendent of Police, Kurnool has been personally monitoring the investigation, in view of the seriousness of the crime, and as the officer of the Cadre Deputy Superintendent of Police is now investigating the case, that the investigation will be completed within a short period and the charge sheet would be filed.

10. Therefore, as it is now found that the husband of the petitioner is no more and he was murdered, nothing survives in this writ petition filed for Habeas Corpus to adjudicate to direct the respondents to produce him before the Court and to set him at liberty.

11. However, before parting with the matter, it is to be noticed that there is any amount of laxity, sloppiness and lethargy on the part of the 4th respondent, who is the Station House Officer of Mantralayam Police Station, and it is a clear case of dereliction of his duty. When a person is found missing and his whereabouts

are not traced and subsequently also the investigation reveals that he was kidnapped and Section of law is altered to Section 367 of I.P.C., he did not make any serious effort to trace the whereabouts of the said missing person. He did not properly investigate the case in a serious matter, where it was ultimately found that he was murdered. It is only after this Court intervened by passing an appropriate order, and when matter is taken to the notice of the Superintendent of Police by the learned Government Pleader, steps are taken to change the Investigating Officer and to find out what has actually happened relating to the said missing person. It is now found that he was murdered. So, the Court seriously deprecates the conduct of the 4th respondent in not properly investigating the case and in not taking the matter with all seriousness that is required to be taken in a case of like nature to find out the whereabouts of the missing person and also to find out the real culprits, who are responsible for his murder.

12. So, in the said facts and circumstances of the case, the Writ Petition is closed. However, it is made clear that the Superintendent of Police, Kurnool, shall personally monitor the investigation of the case till it reaches to its logical end and charge sheet is filed to prosecute the culprits, who are responsible for murder of the deceased in this case. If charge sheet is not filed

against the real culprits and even if there is unreasonable delay in concluding the investigation and in filing the charge sheet, liberty is granted to the petitioner to approach the Court seeking appropriate relief in this regard. There shall be no order as to costs.

Miscellaneous petitions, if any pending, in the Writ Petition, shall stand closed.

JUSTICE CHEEKATI MANAVENDRANATH ROY

JUSTICE TARLADA RAJASEKHAR RAO

Date: 12.07.2023

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