

(2010) 07 JH CK 0032

Jharkhand High Court

Case No: Writ Petition (PIL) No. 333 of 2010

Shrawani and Another

APPELLANT

Vs

The State of Jharkhand and
Others

RESPONDENT

Date of Decision: July 21, 2010

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 156, 173(8), 319

Citation: (2010) 4 JLR 604

Hon'ble Judges: Sushil Harkauli, Acting C.J.; Dhirubhai Naranbhai Patel, J

Bench: Division Bench

Final Decision: Dismissed

Judgement

1. We have heard the learned Counsel for the petitioner.

2. This PIL has been filed ostensibly complaining against a malady which does evoke concern and sympathy. But upon a more detailed examination it becomes obvious that the task required of the Court is too sweeping and wide to be practically manageable. We therefore resist the temptation to be swayed by emotion, and to take upon ourselves a task which is beyond the capacity of this Court, particularly when the normal machinery of the Executive and subordinate Judiciary is available for the purpose.

3. The several prayers in the PIL seek, in substance, that this Court should call for reports/charts regarding all cases/offences in the State of Jharkhand, and to examine and if necessary to monitor whether the investigation and prosecution is being done/has been done properly and whether proper and adequate compensation has been paid to the victims and whether proper efforts have been made regarding rehabilitation of the victims. This Court has also been requested to issue necessary directions to the police and public prosecutors to ensure proper prosecutions expeditiously and in accordance with law. These reliefs are sought in

respect of persons covered by the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 1989 and by the Prevention of Witch (DAAIN) Practices Act 2001.

4. The complaint is that often FIRs are not registered, and even where FIRs are registered they are not under proper sections and in any case there are very few convictions. It is alleged that this in turn leads to increase in the number of such offences.

5. This writ petition appears to have been filed without adequate thought being given to the capacity limitation of the solitary Bench hearing PIL matters to examine all individual cases throughout the State to find out whether the allegations in individual First Information Reports were correct or not correct, whether the individual cases have been properly investigated or not investigated and whether acquittals in individual cases are correct or not correct, on the basis of the evidence available in each individual trial.

6. Normally if any offence is committed, an FIR is to be lodged. If the police station does not register the FIR, Section 156 Cr.P.C. provides the remedy before a Judicial Magistrate. It is the duty of the senior police officers to ensure proper investigation by the Investigating Officers and to look into complaints regarding deficiencies in investigation not only during an ongoing investigation but even after the investigation and before a charge-sheet is filed in Court. Even after filing of charge-sheet further investigation is open u/s 173(8) Cr.P.C. The trial Court also has powers to summon persons other than the accused to stand trial u/s 319 Cr.P.C. If a particular case has not been properly investigated or the accused has been wrongly acquitted, the matter can be examined individually in appeal/revision against acquittal under the Code of Criminal Procedure.

7. The rehabilitation, which has been sought, is also difficult to consider in writ jurisdiction, where questions of fact cannot be examined. Besides cases are not infrequent where false FIRs are lodged only for the purposes of getting compensation or advantage under rehabilitation schemes or provisions.

8. As stated above these are not the matters which can be examined by one single Bench dealing with PILs, as the details of each case have to be examined individually.

9. Besides, there are various organizations, including N.G.Os., which are looking into the matters and which are capable of bringing the matter of an individual to the notice of the concerned officials for appropriate action.

10. We may also point out here that PILs cannot be entertained for granting the relief in general that law should be followed or obeyed. May be where it is demonstrated that there is such large scale violation of some law or there is State sponsored violation of some law, that the Court may feel inclined to intervene in a

PIL.

11. We, therefore, decline to waste our time in this kind of impractical litigation. This writ petition is accordingly, dismissed.