

(2006) 12 KAR CK 0054

Karnataka High Court

Case No: Writ Petition No. 122 of 2005

Sri C. Shiva
Chowdappa

APPELLANT

Vs

The State of
Karnataka and Others

RESPONDENT

Date of Decision: Dec. 22, 2006

Acts Referred:

- Constitution of India, 1950 - Article 21

Citation: (2007) 3 KarLJ 148 : (2008) 2 KCCR 1203

Hon'ble Judges: R. Gururajan, J; N. Ananda, J

Bench: Division Bench

Advocate: G. Balakrishna Shastry, for the Appellant; S Dore Raju, SPP for R-1 to 4 and Naveen and A. Nagarajappa for R-5 and 6, for the Respondent

Judgement

@JUDGMENTTAG-ORDER

1. Our judicial conscious was shocked to learn the factum of 400 missing persons being reported every month in the limits of Bangalore City alone. Hence we thought of taking this matter seriously to arrest this trend of increasing missing cases in the case on hand.

Bangalore city is growing leaps and bounds on account of industrialization and in particular attaining a significant place in IT sector in India. Commercialization has its own effect on the social fabric of a city. Greediness and fast money has resulted in several illegal activities in the city causing a threat to the law and order situation. Abduction, missing and other social crimes have increased due to the greediness of a man. This case would be an eye opener for the authorities to speed up their investigation in the larger interest of safety of a man in a busy city like Bangalore. Technology has shown its impact on every activity of a man. Technological development has yielded good results in several sectors. Investigation by police also

is to be toned up so that the missing persons could be traced and handed over to their grieving parents/ husbands/relatives.

2. Noticing large number of missing cases and noticing the relevance of information technology in investigation we in this case sought for several details, from several authorities in the larger interest of liberty / safety of a citizen in a city like Bangalore.

3. This petition is filed by one Sri Shiva, seeking for a direction to produce Smt. Savithramma a wife of fifth respondent in this Court. In the petition it is stated that the petitioner is the elder brother of Savithramma. She was married to fifth respondent in accordance with the Hindu rites on 19-10-2000. At the time of marriage, 150 gms of gold and Rs. 30,000/- was given to the bridegroom. A girl was borne out of the wed lock. According to the petition averments, she was looked after well for a period of one year and thereafter ill-treatment started to Smt. Savithramma, at the hands of the in laws. According to petition averments, her husband used to beat her and used to send her to her parental house to bring dowry. His demands were met to a certain extent. Parents of the petitioner, requested the daughter to obey her in-laws and adjust with the existing atmosphere. It is further stated that she was forcibly got aborted by the fifth respondent and thereafter she was compelled to take rat poison. In those circumstances, she was brought back to the parental house and she was treated. Thereafter in June 2005, she was sent back to her husband. On 27-6-2005 Six respondent came to the place of the petitioner and mentioned that Smt. Savithramma is missing and her whereabouts were not known. A missing complaint was filed. Despite best efforts by the petitioner, they did not get any result ultimately, FIR was also registered against R-5 and 6 before the appropriate form. Petitioner being the brother apprehends that his sister may be put to physical harm and apprehending further problem he has moved this Court by way of writ petition. Notice was issued by this Court and thereafter status report was sought for. Respondent No. 5 and 6 took time to file statement of objections. Time sought for was granted. Thereafter matter was again listed on 10-2-2006 and we directed the police to act swiftly and take appropriate action. Matter was adjourned from time to time thereafter.

4. Pursuant to a notice respondents 2 to 6 appeared before us through their counsel. They denied the allegations made against them and they have also stated that they have appeared before the criminal court and that they were released on bail.

5. On 7-3-2006, this Court directed the Assistant Director of Forensic Science Laboratory to get the Narco analysis test of Sri Ram Prasad done within seven days. Thereafter on 29-5-2006, we noticed the earlier order and also noticed the delay" in the matter of conducting the narco analysis test. We were told by the learned State Public Prosecutor that there was dearth of personnel in the department and only one doctor was appointed in the matter. Noticing this submission, we directed the

Chief Secretary of the State to be present in the court and explain to us as to why some more doctors cannot be appointed in the larger interest of liberty of a citizen under Article 21 of the Constitution of India. On 31-5-2006, the secretary was not present and one Dr. Malini was present. She mentioned to us that she has a very few assistants and she also states that infrastructure facilities are wanting in the matter. We directed her to file an affidavit. On 15-6-2006, the Chief Secretary was present before us. We explained to Mm the difficulties in disposing of the habeas corpus petitions on account of delay in conducting examination by way of narco analysis test. He assured us that he would do his best in the matter. On 20-6-2006, an affidavit was filed by the Chief Secretary and we were happy to note the contents of the said affidavit. The Chief Secretary assured us of providing all the facilities to the department. It was also stated that Rs. 4.00 crores of money would be spent to strengthen the department.

6. In the meanwhile, we noticed an article stating that the Supdt., of Police Mangalore is using IT facility for speedy disposal of the case. We also directed the High court cell to get in touch with Supdt., of Mangalore in the matter of using Information Technology. We also sought for an affidavit from the Commissioner of Police, Bangalore, Head of CCB and also a report from the Director of Forensic Science Laboratory and a report from the DIG (Computers).

7. The Commissioner of Police has filed an affidavit stating that the City has grown several folds in the last one decade and consequently the duties and responsibilities of the CCB has also multiplied with the rise in criminality. The strength of CCB however has remained almost the same at 108 policemen. It is also stated that the volume of work involving investigation of missing cases itself is too much for the CCB to handle with an average of nearly 400 missing cases being reported every month in the limits of Bangalore City police alone. He has also stated that the available statistics show that out of a total 7631 persons reported missing since April 2005, in Bangalore City, 5037 have already been traced. He has stated that more than 2500 are yet to be traced and report to that extent is yet to be obtained. The figures are shocking to us. In terms of the affidavit of the Commissioner, every month 400 persons are missing in Bangalore alone. This would show that the criminal acts are increasing and citizens are not safe in the city of Bangalore.

8. After noticing the large number of missing persons in Bangalore, alone we thought that the police had to speed up its investigation by using technology as otherwise, there is every chance of the missing person being killed by rowdy elements. Hence in the larger interest of liberty of citizens, we sought for help from the Government itself in resolving the situation, particularly in the usage of information technology in investigating process. Several affidavits have been filed. At this stage, we also notice the efforts under taken by Inspector General of Police with regard to publishing details of the missing persons in Doordarshan. He informed us that Doordarshan has agreed to publish details of missing persons

frequently so that some progress is seen in tracing out these missing persons. We also sought for report from DIG, Belgaum. We also suggested to him to get in touch with the IT experts as well as reputed concern like Indian Institute of Science, including IT giants like Infosys, Wipro, TATA Consultancy Services and other concerns of repute and thereafter he is at liberty to include any other suggestions available for better investigation.

9. On 7-9-2006, Joint Commissioner of Police and Assistant Commissioner of Police placed before us certain suggestions in the matter. WE requested Director General of Police and Chairman and Managing Director, Karnataka State Police Housing Corporation Ltd., to go through all the material placed before us and file a detailed suggestive note for our consideration. He has also placed before us his report.

10. In so far as the merits of the matter are concerned, we got the synopsis placed before us by Bagepalli Police Station and we also noticed that the appropriate criminal proceedings are pending before the criminal court. It appears that Smt. Savithramma was done to death. In the light of the report and other pending cases, we are of the view that it is not safe for us to proceed with the habeas corpus and instead close the case so that the appropriate criminal court would take into consideration the investigation including the report and proceed to pass orders on merits.

11. However, in the light of the various efforts and help rendered to us by the Government, Police, Director of Forensic Laboratory etc., we are of the view that their suggestions should form part of this order so that the Government so also the DIG of Police may take into consideration the suggestions made in this judgment and make it workable by way of appropriate circular/order in the larger interest of safety in a city like Bangalore.

12. As mentioned earlier, Director General of Police and Chairman and Managing Director, Karnataka State Police Housing Corporation Ltd., having handled several investigations including the cases involving missing persons has filed affidavit after discussing with police officers, technology service providers and forensic experts, giving the following suggestions for speedy disposal of missing person cases;

A. Immediate action to secure forensic evidence necessary to compare and conclusively establish the identity of the missing woman through DNA analysis, in case only the mortal remains of the missing person were to be located subsequently.

Subject the suspects to further Narco-analysis as required to elicit finer details pertaining to the revelations already made and the activities that took place at the alleged time of disappearance so that further field verification of the revelations made is possible. Examine the feasibility of subjecting some key witnesses also to Narco analysis for cross checking their statements made earlier to the police.

B. Ensure Prompt registration of persons missing cases and to initiate actions on all fronts to trace the missing person.

Police have to promptly register the case of missing cases and to initiate actions on all fronts to trace the missing person. A centralised system is to be established by which any one aggrieved by non registration at the Police Station can through this centralized system, forward their petition to the senior police officers for appropriate intervention. An acknowledgement has to be provided to the aggrieved person.

C. To Speed up investigation.

A Senior Police Officers has to be entrusted with investigation and regular reviews At periodic intervals, with respect to the progress. Be should also get the details with regard to pending cases of persons missing and in identifying dead bodies. Special squads if need be, appointed to pursue further investigation. The state should issue strict instructions directing all police officers to treat matters of person-missing cases as high priority.

D. Set up of a Police Information Network to facilitate quick dissemination of information regarding missing persons.

The existing methodology has to be modified by way of centralized net work. The net work has to have web-enabled information data bank and maintained. If necessary public spirited persons may also be taken into confidence for a meaningful part in the search for the missing person. The facility should include interactive communication capabilities through voice, data, fax, email, sms etc. in addition to other existing means.

E. Improve the mechanism to publish and publicise the details of missing persons in media.

Publication of look out notices in local dailies, TV and cable net works including the Doordarshan, vernacular news papers etc through a single central agency in the districts and commissionerates needs to be devised. Improved arrangements are required to instantly communicate the disseminated details of the missing persons to important hospitals/mortuaries/ all police stations/ out posts/entry and exit points in the State/ neighbouring states to help them to correlate and give feed back of any information of relevance in tracing the missing person. Such details should be made available to officials in charge of temples /churches /mosques /marriage registration office as well as hospitals etc automatically with photographs of missing persons for any useful feed back and intervention as required.

F. The empowerment of police personnel on the beat to be able to communicate and pass on information promptly. The existing means of communication has to be modified for quicker exchange and despatch of important messages.

G. Design and launch of a comprehensive missing person's portal.

Portals should be made available in as many languages as feasible including the local language including the local language of the places where the person is likely to be found. If need be the Government can get the portal designed by Karnataka State Police Housing Corporation Ltd., as it is already maintaining its own web services.

H. Alert generation after coordination of search parameters of missing and unidentified persons.

Better arrangements need to be made for generating automatic advisory memos after comparison of various parameters inters of all missing persons database with that of unidentified cases etc where the person's identity has not been conclusively established. The comparison should include criterion based on identity particulars, finger print minutiae etc.

I. Collection of Forensic evidence necessary for establishing identities conclusively.

No unidentified dead body should be permitted to be disposed of without ensuring collection of all possible evidence that will enable conclusive identity to be established by comparison of necessary forensic samples.

Finger and palm prints, DNA comparison and skull superimposition techniques are being used now to conclusively establish the identity of a person. Since these techniques require some control samples for the purpose of comparison, immediately after a person goes missing, it is necessary to arrange for collection and preservation of control samples of the finger/palm print minutiae, DNA specimen, Good Photographs of the Face etc of the missing person. Some of these can be collected from the already available personal effects or through samples taken from parents, siblings etc.

The proforma through which the details of the missing person's identity are presently being collected needs to be amended in this regard. Such an effort will facilitate the comparison and establishment of identity and help narrow the scope of search and establish the identity of the missing person.

Forensic sciences have evolved and DNA fingerprinting provides conclusive evidence of the identity of a person. However the cost of one DNA sample profiling is stated to be about Rs. 8000/- and in each case of missing persons, it is estimated that 3-4 samples may have to be tested before a match may be found. Since the number of person missing cases in the State is more than 10000 per annum, it is necessary that the facilities for DNA profiling in the State are augmented to match the requirement.

The photograph of un-identified dead body found should be taken in such a manner that it aids Identification of facial features, personal items, any personal

identification marks, shoes, watches, jewellery, tattoo marks, finger prints/palm print, DMA finger print etc.,

J. Introduction of a child tracking system Children who go missing are likely to be unwary victims of exploitation and trafficking. A child tracking system should be part of the web portal being launched to prevent trafficking and exploitation of the person missing.

K. Kin to be taken into confidence about the actions initiated

The relatives of the person missing should be taken into confidence and enabled to know the latest progress made in locating the missing person.

L. Enlisting public cooperation Public kiosks and Police help centres should be established in the jurisdiction of all the police stations in the state as well in public places such as malls/public amusement places/bus stations/railway stations etc so that the information on the missing persons & unnatural and unidentified bodies may be disseminated to the public for possible clues/information exchange. These kiosks should be integrated with closed circuit television system to be put at all public places covering the ports of entry/exit, malls, prominent public amusement places, eateries, etc to facilitate public spirited persons to assist the police in tracing the missing persons.

M. Use of technology and experts and best practices

There is a need to maximize the use of technology and expertise available and document their usage for future reference.

Use of facial recognition software may be pilot tested along with the installation of Closed Circuit Television cameras at vantage exit and entry points in such public places.

Artificial intelligence based expert systems - The State should set up a committee to compile best practices as well as to develop an artificial intelligence based expert system which can be used by the investigating officers at any stage of the investigation to seek guidance and tips to take their search for missing persons forward to fruition. The expert system should take into account the steps taken by the Investigating Officer till then and thereafter suggest possible steps for further investigation based on prior experience and best practices. The service of information technology/artificial intelligence experts could be gainfully employed in this regard.

13. An affidavit is filed by the Director General of Police, COD, Bangalore suggesting redesign existing Police Web Site [www. karnatakastatepolice.org](http://www.karnatakastatepolice.org) to enable the Investigating Officers to up-date the information regarding the missing person/unidentified dead bodies directly from the Police Station Computers as soon as such cases are reported through, KSP WAN. He also mentioned that the Criminal

Investigation Department (CID), West Bengal, has formed "Missing Persons Bureau" which takes certain steps to assist the local police in tracing missing persons and identifying the unidentified dead bodies. He has mentioned that he has proposed to take similar steps in Karnataka in consultation with Director General & Inspector General of Police, Karnataka State, Bangalore and Dy. Inspector General of Police, SCRB, Bangalore. Re has also suggested that all newspapers and cable operators are to publish details free of cost.

14. We do hope that the Doordarshan and other media would be lending their hand by free service as part of their duty in terms of the affidavit filed by the Director General of Police. The Government may also write a letter in this regard and we are sure that the media would not lag behind in lending their help to the State.

15. The Commissioner of police also has echoed his suggestions made by the Director General of Police with regard to free publicity. He has also stated the steps to improve the investigation by way of nominating ACPS as nodal officers for reviewing the missing cases. Re has further stated that efforts should be taken on the Lines of CID West Bengal.

16. Dr. B.M. Mohan has also filed an affidavit and he has mentioned the steps taken by the Forensic Science Laboratory, Bangalore.

17. We have also seen the affidavit filed by the DIG of Police, SCRB. He has stated that the SCRB has its own web site. He has also suggested the use of Multi Media Messaging System (MMS)/Short Messaging System(SMS) available in mobile phones to be tapped for alerting the police personnel as well as the public in the event of registration of missing/unidentified dead. He has further suggested that the Internet Service Providers and Mobile Service Providers may have to be coordinated to carry these messages with photo etc without delay and free of cost. Forensic Science Laboratory will be required to take further measures to enhance its infrastructure and manpower to provide assistance to the Investigating Officers.

18. We also see the steps taken by the Government in strengthening Forensic Science laboratory by spending large sums of money. We appreciate the steps taken by the Government in the larger interest of the safety of citizens and law and order situation in the State of Karnataka and in particular, Bangalore. We deem it proper to emphasize the friendly atmosphere in police stations when people come with missing complaints.

19. In these circumstances, We deem it proper to direct the learned State Public Prosecutor to place this order before the Prenatal Secretary, Home Department, Director General of Police, and the Law Secretary so that they may issue appropriate circulars/ instructions / orders for speedy investigation by making use of the information technology in terms of the suggestions/ materials in the order, so that the city of Bangalore is rid of missing complaints and we do hope that the Government would act swiftly in maintaining a safer name for safer investment and

for safer living in the State of Karnataka.

20. We also place on record our appreciation for the immediate steps taken by the Government in strengthening the Forensic Science Laboratory Ltd., and for the efforts undertaken by the learned State Public Prosecutor in collecting the material and also for the suggestions in terms of respective affidavits filed by Senior Police Officers of the State.

Ordered accordingly. No costs.