

The High Court Of Madhya Pradesh

WP-8145-2021

(RITWIK KAUSHAL Vs THE STATE OF MADHYA PRADESH AND OTHERS)

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Jabalpur, Dated : 11-06-2021

Heard through Video Conferencing.

Mr.Anurag Gohil, learned counsel for the petitioner.

Mr.Adamya Bajpai, learned PLfor the State.

The present petition has been filed by the petitioner, who is aggrieved by the action of the respondents, who in an arbitrary and unlawful manner made the petitioner an accused in a criminal case by falsely implicating him.

The case of the petitioner is that on 22.3.2021 he had gone to Sair Sapata at Bhopal along with his friends from where he was unlawfully picked up by the Police and taken to PS Piplani and kept there for two days. In the petition, the petitioner has specifically taken the name of the Head Constable 1482 Vijendra Dyma, Constable 3178 Brajesh Singh, Constable 3624 Jitendra Dangi and other police personnnels, whom he could not identify. It is further stated that when this fact came to the knowledge of the family members of the petitioner, they visited the police station, where on enquiry they were informed by the police that they will leave the petitioner after sometime. Thereafter, the FIR, according to the learned counsel for the petitioner, was registered on 24.2.2021 being Crime No. 204/2021, where it was alleged that the applicant was arrested on 23.2.2021 upon source information and drugs seized from him. The applicant moved an application before the Special Judge NDPS on 1.3.21 that the CCTV footage from 22.2.2021 till 24.2.2021 of Police Station Piplani be secured and brought before the Court, which would clearly reveal that the petitioner was in the unlawful custody of the respondent no.5 during that period.

Vide order dated 1.3.2021, the learned Special Judge NDPS, Bhopal, directed that the said footage be produced, as the Court was of the opinion that the prayer of the petitioner was legitimate one. The case was thereafter

listed on 2.3.2021. On that date the prosecutor submitted that the CCTV footage of the said period cannot be shown to the petitioner as that would reveal the identity of the source informant. However, the police report that was given to the Court below disclosed the reason why the CCTV footage cannot be given was on account of the non-functioning of the CCTV cameras in the Thana from 17.2.2021. It is surprising that the prosecutor states that the footage cannot be given because it would reveal the identity of the source informant who was present in the police station, which logically means that the CCTV cameras were functioning and there was indeed a footage. The police on the other hand says that the cameras itself had turned disfunctional from 17.2.2021.

The facts of the petitioner's case reveal a very shocking state of affairs in the State of Madhya Pradesh. In this regard, this Court feels it essential to refer to an order dated 7.12.2020 passed by this Court in M.Cr.C.No.37685/2020 (Alkesh Jaiswal Vs. State of M.P.). The order is reproduced in its entirety herein below :

"Mr. Manish Datt, learned senior counsel with Mr. Sidharth Datt, counsel for the applicant.

Mr. Piyush Bhatnagar, learned Panel Lawyer for the respondent/State.

The applicant is in judicial custody since 17.05.2020. The allegation against him is that he was apprehended and from his possession, 52 kilograms of Ganja was seized. The other co-accused persons along with the present applicant are Sachin Jaiswal, Pusphendra Patel, Ramniwas Dubey and Pushpendra Jaiswal. The incident is stated to have taken place at 3.00 p.m. on 17.05.2020 and the F.I.R. was registered at 21.46 hours of 17.05.2020.

After the arrest of the applicant herein Alkesh Jaiswal, his wife Smt. Preeti Jaiswal filed a writ petition being W.P. No.8080/2020. The said petition was disposed of vide order dated 17.06.2020 by a

coordinate Bench of Hon'ble Mr. Justice Sanjay Dwivedi. In the said petition, it was alleged that the applicant Alkesh Jaiswal was falsely implicated and that he was lifted from his Poultry farm without showing his arrest and at that time, no Ganja was seized from his possession. It was further stated in the writ petition that all the activities were done at the Police Station, Mangawan, Distt. Rewa and if the video footage of the CCTV camera installed in the Police Station was produced before the Court, it would make the defence of the applicant effective. The learned Deputy Adocate General who appeared on behalf of the State in the aforesaid writ petition had objected and submitted that the offence has been registered against the husband of the present petitioner and that the Panchnama is also prepared and it is not the job of the Police authorities to collect evidence for the accused.

An application seeking similar relief was filed before the Special Court, which declined to accede to the request of the applicant for preserving the CCTV footage, as the CCTV camera installed in the Police Station was not functional, as per the statement of the SHO, Mangawan. Thereafter, this Court went on to direct the Superintendent of Police, Rewa to get a fair investigation carried out from his subordinate officers and to ascertain whether the statement given by the SHO, Mangawan before the Special Court, Rewa that the CCTV installed in the Police Station, Mangawan was not functional at the relevant point of time, is correct or not and if the same was found to be a false statement made by the SHO, Mangawan before the learned Special Court, Rewa and if the footage at the relevant point of time could be preserved, then the Superintendent of Police was given the liberty to pass appropriate orders, in the facts and circumstances of the case against the said SHO of P.S. Mangawan. The Court also gave 15

days time to the S.P. Rewa from the date of submitting the certified copy of the said order to act in compliance of the said order.

Upon a request, Mr. Rakesh Kumar Singh, the Superintendent of Police, Rewa was kind enough to join us through Video Conferencing. The present Superintendent of Police, Rewa took the charge on 26.06.2020. He says that he received the information from Police Station, Mangawan informing him about the dysfunction in the CCTV camera installed in the Police Station, Mangawan, on 27.6.2020. The Court feel distressed to observe that the CCTV camera, which according to the report of the Superintendent of Police, Rewa dated 29.07.2020 had been rendered dis-functional on 01.05.2020 continued to be in that state till 27.06.2020, atleast when its status is reported to the office of the Superintendent of Police, Rewa by Police Station, Mangawan.

Learned counsel for the parties are requested to file the charge-sheet and all such documents that they would like to file in this case for this Court to appreciate whether prima-facie, there has been a case of illegal custody and detention by the staff of Police Station, Mangawan so far as it relates to applicant Alkesh Jaiswal.

Let this be done on or before the next date of hearing.

List this case on 17.12.2020.

A typed copy of this order be supplied to the learned counsel for the State for necessary action and compliance."

This Court feels prima facie that in order to cover up instances of unlawful detention by the police, the police comes up with the argument that the CCTV cameras are disfunctional. Such a stand taken by the police does not augur well for the ordinary citizens of the State. It creates an environment of giving an opportunity to the Police to act with impunity in complete disregard to human rights and personal liberty and enables them to detain anyone in the police station and conveniently give an explanation that the

CCTV cameras were disfunctional during the period which the citizen says that he was unlawfully detained in the police station.

This petition and the M.Cr.C discloses a larger issue before this Court and, therefore, on the next date of hearing, the respondent no.3 Deputy Inspector General of Police, DIG- Bhopal (Urban), Police Headquarters, Bhopal and the Superintendent of Police South Bhopal shall remain present before this Court through video conferencing from 10.30 am onwards with an explanation as to why the cameras were disfunctional from 17.2.2021, whether the authorities who had to be informed about the disfunctionality of the cameras, were duly so informed by the SHO of PS Piplani, Bhopal and if they were so informed, what were the steps taken forthwith by those officials to have the cameras rectified in the shortest possible time.

List this case as **Item No.1** on **14.6.2021** along **M.Cr.C.No.37685/2020.**

(ATUL SREEDHARAN)
JUDGE

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