

A

STATE OF M.P. & ANR.

v.

RAM PRAKASH SINGH & ANR.  
(Criminal Appeal No. 104 of 2012)

B

JANUARY 10, 2012

**[R.M. LODHA AND H.L. GOKHALE, JJ.]**

*Inquiry - Direction by High Court to CBI to enquire into the matter - Challenge to - Matter of escape of the criminals from the police custody and the role of various officers posted at the District - In a writ petition before the High Court, various directions issued from time to time to the State Government - Inaction/failure on part of the State Government in the matter - Order of High Court asking CBI to hold enquiry into the said matter - Appeal by State and Superintendent of Police before Supreme Court - Supreme Court stayed the order passed by the High Court and directed the Chief Secretary, State to appoint the Additional Chief Secretary to conclude the enquiry into the matter and submit the report - Pursuant thereto, President Board of Revenue was nominated by the Chief Secretary to hold the enquiry - Held: The direction given by the High Court to refer the matter to CBI to hold an enquiry into the matter has lost its relevance since the President Board of Revenue has already held the enquiry and submitted his report - Though the order of the High Court is set aside, the matter being grave, the State Government to take appropriate action against the erring official/s and to take all remedial measures - State Government directed to make amendment in the existing rules relating to the taking out of dangerous or sensitive prisoner to be transferred from one jail to another jail, for court appearance or on administrative grounds; as also State Government shall, in consultation with the High Court, take a decision about construction of single court room complexes for holding trial of dreaded criminals/dangerous prisoners in proximity to the Central Jails.*

H

Four criminals escaped from the police custody with help and connivance of the police officers and/or negligence/inaction of the guards escorting them. Thereafter, they murdered 14 persons in the village. The police started torturing the persons from 'B' community. The first respondent filed writ petition alleging that after the escape of four dacoits from the police custody, the police had started torturing the persons from 'B' community in the District. It was prayed that the State and its functionaries be directed to refrain from causing torture to the people of the said community and directions be issued for their protection. The High Court issued various directions but the State Government failed to respond to the directions given by the High Court. Due to consistent inaction on the part of the State Government, the High Court asked the Central Bureau of Investigation to hold enquiry into the matter of escape of the criminals from the police custody and the role of the police officers posted in the District. Thus, the appellant-State Government and the Superintendent of Police filed the instant appeal.

This Court stayed the operation of the order of the High Court and directed the Chief Secretary, State to conclude the enquiry into the matter and submit the report. In pursuance thereof, President Board of Revenue conducted an enquiry and submitted report as regards the persons responsible for the said incident and also made suggestions in order to prevent repetition of such incident.

As regards the arrest of the said criminals who escaped from the custody, except one all are killed in the police encounters and the weapons snatched by the above criminals while escaping from the police custody have been recovered.

**A Disposing of the appeal, the Court**

**B HELD: 1.1. Having regard to the fact that the order whereby the High Court directed the matter to be referred to CBI for holding enquiry into the matter of escape of the criminals from the police custody and the role of various officers posted at Gwalior has been stayed by this Court way back in the year 2004, and in 2007 the direction was given to the Chief Secretary, Madhya Pradesh to appoint the Additional Chief Secretary to conduct the enquiry into the said matter and pursuant thereto President Board of Revenue, Gwalior, was nominated by the Chief Secretary to hold the enquiry and he has already held the enquiry and submitted his report dated May 29, 2008, it is satisfied that the direction given by the High Court to refer the matter to CBI to hold an enquiry into the matter has lost its relevance, thus, the said direction is set aside. [Para 14] [62-A-C]**

**E 1.2. The escape of four dreaded criminals from the police custody and the murder of 14 innocent persons by these criminals after their escape are extremely serious matters. In the matter as grave as this, the State Government was expected to act promptly by taking action against the erring police officials but it failed to act, necessitating drastic order by the High Court. Though the order of the High Court impugned in the instant appeal is set aside, but the handling of the matter by the State Government and its functionaries has been far from satisfactory. The State Government should take appropriate action against the erring official/s without any further delay and also take all remedial measures to ensure that such things do not happen in future. [Para 15] [62-D-F]**

**H 1.3. The first appellant-State of Madhya Pradesh is directed, as suggested in the report submitted by the**

**President Board of Revenue, Gwalior (i) to make amendment in the existing rules and provide that dangerous prisoners shall not be taken out of jail for journey by public transport vehicles or private vehicles under any circumstances, and (ii) provide in the Jail Manual that whenever any dangerous or sensitive prisoner is to be transferred from one jail to another jail, for court appearance or on administrative grounds, the Jail Superintendent should inform the concerned Superintendent of Police and District Magistrate by a written communication as well as by meeting them. It is also directed that the State Government shall, in consultation with the High Court, take a decision about construction of single court room complexes for holding trial of dreaded criminals/dangerous prisoners in proximity to the Central Jails. The Action Taken Report about compliance of the above directions shall be submitted by the first appellant before the High Court. [Para 16 and 17] [62-G-H; 63-A-C]**

**CRININAL APPELLATE JURISDICTION : Criminal Appeal No. 104 of 2012.**

**From the Judgment & Order dated 08.11.2004 of the High Court of Madhya Pradesh Jabalpur Bench at Gwalior in I.A. No. 8405 of 2004 in W.P. No. 747 of 2001.**

**Vibha Datta Makhija for the Appellants.**

**Puneet Jain, Sambhav Sogani, Chirsti Jain, Rachitta P. Rai (for Pratibha Jain) for the Respondents.**

**The Judmgent of the Court was delivered by**

**R.M. LODHA, J. 1. Leave granted.**

**2. On March 23, 2001, a gang of four criminals comprising of Rambabu Gadariya, Dayaram, Pratap and Gopal, while returning from Dabra to Gwalior after attending court, escaped**

- A from the police custody. Allegedly, these four criminals escaped with the help and connivance of the police officers and/or negligence/inaction of the guards escorting them. After escaping from the police custody, these four criminals murdered 14 persons in village Bhanwarpura. This led to harassment and
- B torture of persons from gadariya (Baghel) caste by the police. They initially filed complaint with the District Judge, but later on the first respondent-Ram Prakash Singh filed a Writ Petition (being Writ Petition No. 747 of 2001) in the nature of Public Interest Litigation before the High Court of Madhya Pradesh,
- C Bench at Gwalior.

3. In that Writ Petition, it was alleged that after escape of four dacoits noted above from police custody, the police has started torturing the persons from *Baghel* community in the Gwalior district. Accordingly, it was prayed that the State of Madhya Pradesh and its functionaries (respondents therein) be directed to refrain from causing torture to the people of *Baghel Samaj* in the district of Gwalior and directions be issued for protection of their life and liberty.

E 4. The matter came up for consideration before the High Court on various dates. As the matter was in the nature of public interest litigation and the grievance was raised that the above criminals after their escape were causing havoc and they have not been taken into custody by the police which has caused

F huge fear in the minds of the people of the area, the High Court issued various directions from time to time. The High Court asked the State Government to hold an enquiry into the escape of above criminals from the police custody and submit the report regarding action taken against the officers responsible for the

G lapse. Despite numerous opportunities, the State Government failed to respond to the directions given by the High Court satisfactorily which constrained the High Court to direct the Director General of Police, Madhya Pradesh, to remain present in the Court. It appears that the Advocate General of the State

H of Madhya Pradesh made a statement before the High Court

that the enquiry into the episode shall be conducted by a very senior office of the State and report submitted to the Court. However, nothing happened in the matter. The High Court then called the Principal Secretary (Home) in the Court. The Principal Secretary (Home) appeared and made a statement that the enquiry into the matter shall be conducted within a period of two months from March 9, 2004. On June 30, 2004, on behalf of the State Government, time was sought for submission of the enquiry report, but no enquiry report was submitted. In the backdrop of consistent inaction on the part of the State Government in the matter, on November 8, 2004, the High Court asked the Central Bureau of Investigation (CBI) to hold enquiry into the matter of escape of the above criminals from the police custody and the role of the officers posted at Gwalior, particularly the role of Superintendent of Police, Gwalior, Inspector General of Police, Gwalior, Superintendent, Central Jail, Gwalior, Jailor, Central Jail, Gwalior, District Magistrate, Gwalior, Town Inspector, Gwalior and Sub-Divisional Officer posted at Dabra. It is this order which has been challenged by the State of Madhya Pradesh and Superintendent of Police in this Appeal, by special leave.

5. On December 17, 2004, this Court issued notice to the respondents and stayed operation of the order of the High Court impugned in the Appeal.

6. On November 28, 2007, this Court directed the Chief Secretary, State of Madhya Pradesh, to appoint the Additional Chief Secretary to conclude the enquiry into the matter as expeditiously as possible and in any event within three months from the date of the order and submit a report to this Court.

7. In pursuance of the order dated November 28, 2007, an enquiry has been conducted by Shri Rakesh Bansal, IAS, President Board of Revenue, Gwalior.

A 8. In his report dated May 29, 2008, the President Board of Revenue, Gwalior, recorded his conclusions thus :-

B "10. ...., I reach to the conclusion that the then S.P. Shri Anvesh Manglam, can not be held responsible for the incident of escape of dacoits from police custody.

C 13. ...., I reach to the conclusion that Shri Yogesh Choudhary and Shri K.P. Sharma the then Deputy Superintendent of Police (Headquarters) can not be held responsible for this incident of escape of Gadaria gang from police custody.

14. ... For the whole chain of events, most responsible person is Reserve Inspector Ajay Tripathi only.

D 15. It is worth to mention here that Government has already dismissed/compulsorily retired from service two Head Constables and four constables deployed in the escort duty of dacoits for carrying them for appearance before court at the time of their escape."

E 9. It appears that the disciplinary proceedings initiated against the Reserve Inspector Ajay Tripathi have not been taken to logical conclusion in view of the stay order obtained by him in a judicial proceeding.

F 10. In his report, Shri Rakesh Bansal, IAS, President Board of Revenue, Gwalior has also made certain suggestions in order to prevent repetition of such incident. These suggestions are:-

G "16(1) It should be provided in the Rules that dangerous prisoners must not be taken out of jail for journey by public transport vehicles or private vehicles, under any circumstances.

H (2) Keeping in view the possibility of escape during transport of prisoners, it appear to be prudent that one

STATE OF M.P. & ANR. v. RAM PRAKASH SINGH & 61  
ANR. [R.M. LODHA, J.]

regular court room be constructed in proximity to the central  
Jails. A

The suggestion of the same intent has also been  
mentioned by the then Commissioner of Gwalior Division  
in his enquiry report on the page 27. B

(3) It must be provided in the Jail Manual, that whenever  
any dangerous or sensitive prisoner is to be transferred  
from one jail to another jail, for court appearance or on  
administrative grounds, the jail superintendent should  
inform the concerned Superintendent of Police and District  
Magistrate vide a demi-official letter and by meeting them  
personally." C

11. No affidavit has been filed by the present appellants  
indicating whether the above suggestions of the President,  
Board of Revenue, have been accepted by the State  
Government or not. However, Ms. Vibha Datta Makhija, learned  
counsel for the appellants, submitted that the State Government  
did not have any reservation in accepting the suggestions made  
by the President, Board of Revenue, in his report as noted  
above. D E

12. As regards the arrest of the above criminals who  
escaped from police custody on March 23, 2001, in the  
additional affidavit filed by U.R. Netam, I.G. of Police, Police  
Headquarters, Bhopal, Madhya Pradesh, dated April 01, 2007,  
it has been stated that 4 out of 5 dacoits of the gang have been  
killed in police encounters and only Rambabu Gadaria is  
believed to be alive. It has also been stated that all the weapons  
snatched by the above criminals while escaping from police  
custody have been recovered. F G

13. Ms. Vibha Datta Makhija, learned counsel for the  
appellants, stated that Criminal Writ Petition No. 747 of 2001  
was still pending before the High Court. H

A 14. Having regard to the fact that the order dated  
November 8, 2004 whereby the High Court directed the matter  
to be referred to CBI for holding enquiry into the matter of  
escape of above criminals from the police custody and the role  
of various officers posted at Gwalior has been stayed by this  
B Court way back in the year 2004, and in 2007 the direction was  
given to the Chief Secretary, Madhya Pradesh to appoint the  
Additional Chief Secretary to conduct the enquiry into the above  
matter and pursuant thereto Shri Rakesh Bansal, IAS,  
President Board of Revenue, Gwalior, was nominated by the  
C Chief Secretary to hold the enquiry and he has already held the  
enquiry and submitted his report dated May 29, 2008, we are  
satisfied that the direction given by the High Court to refer the  
matter to CBI to hold an enquiry into the matter has lost its  
relevance. We, accordingly, set aside the said direction.

D 15. The escape of four dreaded criminals from the police  
custody and the murder of 14 innocent persons by these  
criminals after their escape are extremely serious matters. In  
the matter as grave as this, the State Government was expected  
to act promptly by taking action against the erring police officials  
E but it failed to act, necessitating drastic order by the High Court.  
Though we have set aside the order of the High Court impugned  
in this Appeal for the reasons noted above, but the handling of  
the matter by the State Government and its functionaries has  
been far from satisfactory. We would like the State Government  
F to take appropriate action against the erring official/s without  
any further delay and also take all remedial measures to ensure  
that such things do not happen in future.

G 16. We direct the first appellant-State of Madhya Pradesh,  
as suggested in the report submitted by Shri Rakesh Bansal;  
(i) to make amendment in the existing rules and provide that  
dangerous prisoners shall not be taken out of jail for journey  
by public transport vehicles or private vehicles under any  
circumstances, and (ii) provide in the Jail Manual that whenever  
H any dangerous or sensitive prisoner is to be transferred from

STATE OF M.P. & ANR. v. RAM PRAKASH SINGH & 63  
ANR. [R.M. LODHA, J.]

one jail to another jail, for court appearance or on administrative grounds, the Jail Superintendent should inform the concerned Superintendent of Police and District Magistrate by a written communication as well as by meeting them. We also direct that the State Government shall, in consultation with the High Court, take a decision about construction of single court room complexes for holding trial of dreaded criminals/dangerous prisoners in proximity to the Central Jails. A B

17. The Action Taken Report about compliance of the above directions shall be submitted by the first appellant before the High Court. C

18. With the above directions, Appeal stands disposed of.

19. It shall be open to the High Court to issue further directions, if necessary, in Criminal Writ Petition No. 747 of 2001, which is said to be still pending before the High Court of Madhya Pradesh, Bench at Gwalior. D

N.J.

Appeal disposed of.