

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

WRIT PETITION (CRL.) NO.18 OF 2006

RE: NEWS ITEM "38 YEARS IN JAIL WITHIOUT TRIAL" PUBLISHED IN HINDUSTAN
TIMES DATED 06.02.2006.

(With office report)

Date: 13/02/2006 This matter was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE C.K. THAKKER

HON'BLE MR. JUSTICE R.V. RAVEENDRAN

For Petitioner (s) Mr. Vijay Hansaria, Sr.Adv. (A.C.)

For Respondent (s)

UPON hearing counsel the Court made the following

O R D E R

Report has been received from the Registrar General of t
he High Court of

Allahabad. No report has, however, been received from the State Government which is

also not represented by any counsel.

Learned Amicus Curiae will take steps for service on the standing counsel
for

the State of Uttar Pradesh.

From the report sent by the High Court, it appears that the case relates to

F.I.R. dated 29th June, 1968. The charge against Jagjivan was framed under Section 302

I.P.C. and the case was at final stage in October, 1968 inasmuch as considerable amount

of prosecution evidence was recorded and the case was also posted for recording the

statement of the accused under old section 342 (now section 313) of the Code of Criminal
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Procedure. At this stage, after holding an enquiry under Section 4
65 of the old Code

(now section 329) an order dated 7th December, 1968 was made by Sessions Judge

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postponing the trial and directing the accused to be kept in lunatic asylum. In the

meantime, the Superintendent of the lunatic asylum was directed to submit quarterly

reports. Curiously, however, the case was consigned to the record room. For present, we

do not know what could be the reason for consigning the case to record room. It does not

appear from the documents submitted by the High Court that any quarterly reports were

submitted by the Superintendent of lunatic asylum. The case came before the court only

in July, 2005 as is evident from the letter of the Senior Superintendent Jail, Faizabad,

dated 21st July, 2005. The record does not show the date of the letter of Chief Medical

Superintendent, Mental Asylum, Varanasi. On 1st September, 2005, the accused was

transferred to District Jail, Faizabad.

We may only note that even in July, 1968 an amicus curiae was appointed to represent the accused which shows his financial and social status. Further, it appears that the records relating to sessions trial are not traceable in the police station. The accused, we are told, continues to be in custody. In case the accused Jagjivan is still in jail and has not been released on bail, we direct that he shall be released on bail forthwith on his furnishing personal bond.

We further direct that notice shall issue to the Chief Medical Superintendent, Mental Asylum, Varanasi placing on record of this Court the relevant material that may be available in the asylum regarding reports, if any, which may have been sent to the Court in terms of order dated 7th December, 1968. In case, no reports were sent, reasons thereof shall be supplied in the report to be sent to this Court. Further, the Registrar General of the High Court shall obtain and forward a further report from the concerned Sessions Judge now dealing with the case; the record, if any, which may show as to whether the case was monitored after 7th December, 1968 or not; whether any quarterly reports were filed or not; if filed, what orders were passed thereupon and if not filed, were any directions issued to the lunatic asylum to comply with the order dated 7th December, 1968. These reports shall be filed within two weeks from the date of receipt of this order.

The matter is adjourned for three weeks.

(N. Annapurna)

(V.P. Tyagi)

Court Master

Court Master