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Cr1.A.No. 324 OF 2004  
ITEM No.8

Court No. 2

SECTION IIA  
A/N MATTER

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

SUO-MOTO Petition No. 5410/2004 in Criminal Appeal No. 324/2004

KALYAN CHANDRA SARKAR

Appellant (s)

VERSUS

RAJESH RANJAN @ PAPPU YADAV & ANR.

Respondent (s)

(With office report)

Date : 20/07/2004 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE N. SANTOSH HEGDE  
HON'BLE MR. JUSTICE S.B. SINHA  
HON'BLE MR. JUSTICE A.K. MATHUR

For Appellant (s)

Ms. Indu Malhotra, Adv.

For Respondent (s) Mr. Rishi Malhotra, Adv.

Mr. Prem Nath Malhotra, Adv.

Mr. P.P. Malhotra, ASG,

Mr. ADN Rao, Adv.

Mr. P. Parmeswaran, Adv.

Mr. B.B. Singh, Adv.

UPON hearing counsel the Court made the following

O R D E R

The report from the Superintendent of Patna Medical College Hospital and the inquiry report from the Sessions Judge, Madhepura be submitted within two weeks from today. The Concerned authorities will give effect to this order forthwith.  
List this matter after three weeks.

(Shashi Sareen)(Prem Prakash)

Court Master Court Master

(Signed order is placed on the file)

IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION

SUO-MOTO PETITION NO. 5410/2004

IN

CRIMINAL APPEAL NO. 324 OF 2004

KALYAN CHANDRA SARKAR

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Appellant (s)

Versus

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Respondent(s)

O R D E R

We have perused the reports filed by the Home Secretary, Superintendent of Jail, Beur, Patna, Bihar, Superintendent Patna, Medical College Hospital as also the report filed by the CBI. It is clear from the said reports though respondent Rajesh Ranjan @ Pappu Yadav is suffering from some ailment in one of his legs. The ailment is not such that requires 24 hour treatment or continuous observations by Doctor much less his presence in the hospital continuously is necessary. This is clear from the following facts: while in custody he himself has made an application to attend the legislative assembly proceedings (which prayer was not granted by the Court). He prayed for and obtained permission from the High Court to travel to Purnea from Patna to file nomination to contest the election in the recently concluded Lok Sabha elections. He also sought permission for four weeks to canvass in the said constituency (though this was not granted). He was also able to travel to Madhepura to attend the case in Fast Track Court-I at Madhepura. All these travels are made without having a medical certificate certifying that he is fit to travel or any doctor accompanying him. It is also clear from the report of the CBI that prior to the cancellation of his bail, this respondent had got himself admitted in AIIMS, New Delhi where the report says that he used to leave the hospital premises in the day time and then come back late in the night which also indicate that his requirement to be in the hospital is not a genuine medical requirement but is obviously to avoid being in jail. In such circumstances, we think it is in the interest of justice that we should direct the authorities to take the respondent Rajesh Ranjan @ Pappu Yadav into Beur Jail, Patna forthwith and keep him in the prison cell like any other normal prisoner. His treatment as and when necessary will be made in the jail by doctors visiting him in jail.

We also notice that in the report filed by the Medical Superintendent, Medical College Hospital, Patna he had intimated this Court that the respondent when brought to the hospital after his bail was cancelled he was to be transferred to the prisons ward of the hospital but due to non availability of bed in the prisons ward he was treated in the general ward. Having considered the report of the CBI in this regard we are satisfied this statement of the Superintendent of his hospital is wholly incorrect if not false. The statement filed by the CBI shows that there was vacant beds in the prison ward of the hospital at all relevant times. Even the statement of the Superintendent that the respondent was being treated in the general ward is wholly false. The report of the CBI shows that the respondent was given two rooms in the second floor of the hospital which was meant to be an ICU, further another room was provided for the police escorts. Therefore it is clear that the hospital authorities have treated this respondent as a VIP at the cost of other patients contrary to jail manual. In our opinion this statement by the Superintendent of Patna Medical College Hospital is totally incorrect and is made to mislead this Court. Therefore we call upon him to explain why appropriate proceedings should not be initiated against him for this false information. Notice shall be issued to the said Superintendent in this regard.

We also notice from the reports filed before us both by the Home Secretary as well by the CBI that there is a case pending in Sessions Trial 93/89 before the Fast Track Court-I at Madhepura against the respondent. It is also seen from the record that an application was made by the respondent himself in that case for separating his trial from the other accused persons on the ground that other accused persons were absconding. It seems on the basis of this application a production warrant was issued by the Fast Track Court-I in Sessions Trial No. 93/89 for production of respondent in the Court on 3rd May, 2004. There is some controversy whether the order directing the warrants was actually signed by the Fast Track Court Judge or not. There is an indication in the reports that the proceedings have been initiated against the Peshkar in this regard. This also gives rise to a doubt in our mind that whether actually presence of respondent was legally necessary on 3rd May, 2004 before the Fast Track Court or the same was obtained surreptitiously.

In this background we direct the Sessions Judge, Madhepura to hold an inquiry to find out whether the issuance of production warrant by the Fast Track Court in ST 93/89 for the production of respondent was issued for lawful reason or for collateral purposes.

The report from the Superintendent of Patna Medical College Hospital and the inquiry report from the sessions Judge, Madhepura be submitted within two weeks from today. The Concerned authorities will give effect to this order forthwith.

List this matter after three weeks.

.....J.

(N.SANTOSH HEGDE)

.....J.  
(S.B.SINHA)

.....J.

(A.K.MATHUR)

New Delhi,  
July 20, 2004.