

IN THE SUPREME COURT OF PAKISTAN
(APPELLATE JURISDICTION)

PRESENT:

Mr. Justice Iftikhar Muhammad Chaudhry, CJ.
Mr. Justice Abdul Hameed Dogar
Mr. Justice M. Javed Buttar

Suo Moto Case No.No.12 of 2005
and Constitution Petition No.22 of 2005
(Abduction and Rape of Mst. Sonia Naz)

Sonia Naz

...Petitioner

Versus

Inspector General of Police, Punjab & others

...Respondents

For the petitioner:

Ms. Aasma Jehangir, ASC
A/w Mr. Zulfiqar Ahmed Bhutta, ASC
Ch. Muhammad Akram, AOR

For the State:

Mr. Makhdoom Ali Khan, Attorney General
For Pakistan a/w Mr. Khurram Mumtaz ASC
Mr. Aftab Iqbal Ch., AG, (Pb.)
Ms. Afshan Ghazanfar, AAG

For the Respondents:

Rai Muhamamd Nawaz Kharal, ASC
Ch. Riasat Ali, ASC
Ch. Abdullah Khalid, SP
Jamshed Iqbal Chishti, Inspector

Date of hearing:

10.10.2005.

ORDER

In pursuance of notices Ch. Abdullah Khalid, SP and Jamshed Iqbal Chishti, Inspector appeared. Report submitted by I.G. Police, compiled by DIG Zafar Ahmad Qureshi & SP Saad Akhtar Bharwana perused. According to one of the conclusions of the Enquiry Committee, there are sufficient grounds for registration of an FIR for the allegation of rape.

2. Learned Attorney General for Pakistan and learned Advocate General of Punjab, on having seen the recommendation of the Committee, conceded that there should not be any excuse for registration of the case against the culprits namely Abdullah Khalid SP and Jamshed Iqbal Chishti, Inspector.

3. Learned counsel appearing on behalf of the respondents, however stated that sometime be given to them to assist the Court in this behalf.

4. It may be noted that this Court had not passed any adverse order against above noted Police Officers except making direction to the police authorities to proceed in accordance with law and investigate the case independently, therefore, request so made by them is turned down. Let SHO, Police Station Sattokatla, Lahore, register the case against culprits after recording statement of Mst. Sonia Naaz. As Superintendent of Police is involved in this case therefore, IG of Police, Punjab himself will be responsible for supervising the investigation.

5. Case is adjourned to 17th October 2005 for producing copy of FIR and intimating the Court about the progress of the case. Learned Attorney General for Pakistan and Advocate General(Pb.) will go through the contents of the report and make their statements on the next date of hearing.

Islamabad, the
10th October 2005
Nisar/*


12/10

IN THE SUPREME COURT OF PAKISTAN
(APPELLATE JURISDICTION)

PRESENT:

MR. JUSTICE IFTIKHAR MUHAMMAD CHAUDHRY, CJ.
MR. JUSTICE MUHAMMAD NAWAZ ABBASI
MR. JUSTICE HAMID ALI MIRZA

Suo Moto Case No.12 of 2005 and Constitution Petition No.22/05

Sonia Naz wife of Asim Yousaf

Petitioner

Versus

Inspector General of Police, Punjab

Respondent

For the Petitioner:

In person

Mr. Mahdoom Ali Khan, Attorney General,
Mr. Aftab Iqbal Chaudhry, AG, Punjab
Ms. Afshan Ghazafandar, AAG
Rai Muhammad Nawaz Kharal, ASC

For the respondent:

Mr. Mehr Khan Malik, AOR
Mr. Tariq Salim Dogar, DIG along with
Muhammad Hanif, SI

Constitution Petition No.22 of 2005

For the petitioner:

Mr. Zulfiqar Ahmed Bhutta, ASC
Ch. Muhammad Akram AOR.

For the respondent:

N.R

Date of hearing:

17.10.2005

ORDER

Learned Attorney General states that in pursuance of the inquiry report compiled by DIG Zafar Ahmad Qureshi and SP Saad Akhtar Bharwana, FIR No.650/05 under Section 10,11,16,17 and 18 (Enforcement of Haddood) Ordinance, 1979 read with section 344, 354, 355 and 506 PPC and Article 155 of the Police Order, 2002 has been registered and investigation is in progress. On our inquiry he informed that accused involved in the case have not been arrested so far. Be that as it may, we direct that let police proceed with the case strictly in accordance with the law, without extending concession to the culprits merely for the reasons that they are police officers because no one is above the law.

2. Inspector General of Police, who has been directed to supervise the investigation of the case, owe an obligation to ensure that object is achieved in a most transparent manner, independently, strictly in accordance with law, however, the progress of investigation so far carried out seems to be unsatisfactory.

3. Thus I.G. Police (Punjab) is directed to constitute a team comprising at least three senior and most experienced Superintendents of Punjab Police having good reputation, professional skills and impartiality to ensure completion of the investigation expeditiously, under his supervision. He will appear personally in Court on 20th October 2005 along with police file and progress report.

4. The order be communicated to I.G, Police, Punjab through fax for compliance and report.

Islamabad, the
17th October 05

Rabbani/*


19/10

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT

Mr. Justice Iftikhar Muhammad Chaudhry, CJ.
Mr. Justice Hamid Ali Mirza.

SUO MOTO CASE NO.12 OF 2005 A/W
CONSTITUTION PETITION NO.22 OF 2005.

(Abduction and Rape of Mst. Sonia Naz)

Sonia Naz *Petitioner*

Versus

Inspector General of Police, *Respondents.*
Punjab & others

Petitioner : *In person.*

For the respondents : *Mr. Makhdoom Ali Khan,*
Attorney General for Pakistan
Mr. Aftab Iqbal Chaudhry, AG
Mrs. Afshan Ghazanffar, AAG
Rao Muhammad Nawaz Kharal, ASC
Mr. Mehr Khan Malik, AOR
Sardar Latif Khan Khosa, ASC
Mr. Ejaz Muhammad Khan, AOR
Mr. Zia-ul-Hasan, IG Prison.
Mr. Mubashar Ullah, SSP.

For the petitioner. : *Mr. Zulfiqar Ahmed Bhutta, ASC*
(Const.P.22/05) : *Ch. Muhammad Akram, AOR*

Respondents. : *Not represented.*

Date of hearing : *20-10-2005*

ORDER

In pursuance of our order dated 17th October 2005, Inspector General of Police appeared and submitted his report which is not satisfactory. However, he stated that a team has been constituted but when his attention was drawn towards the order, passed on previous date of hearing, that a team of three senior most Superintendents of Police be constituted, he stated that after having seen seniority list and the experience of the officers, he would constitute a team which will assist the

Investigating Agency and he himself would supervise the investigation. It has also been informed by him that accused involved in the case have been arrested on 18th October 2005.

We have noted with great concern that accused nominated in FIR appeared before Investigating Officer on 12th October 2005, immediately after registration of the case, but they were not arrested. IG Police failed to justify the action of Investigating Officer in not causing their arrest after the registration of case. However, IG Police now has insured for independent and impartial Investigation by a competent team of Police Officers. In view of his assurance no further order is required to be passed in this regard. The case is adjourned enabling the police to complete investigation and submit challan before the competent Court of jurisdiction if case is made out against the accused.

Adjourned, for putting up progress report on 8th November 2005.

IG or any other Police Officer is not required to appear in Court as Advocate General Punjab is representing them.

*Islamabad
20-10-2005*

RHA/

WS
24/10

IN THE SUPREME COURT OF PAKISTAN
(Suo Moto Jurisdiction)

Present:

Mr. Justice Iftikhar Muhammad Chaudhry, CJ.

Mr. Justice M.Javed Buttar

Mr. Justice Tassaduq Hussain Jilani

Suo Moto Case No.12 of 2005 a/w
Constitutional Petition No.22 of 2005
(Abduction and Rape of Mst. Sonia Naz)

Sonia Naz

...Petitioner

Versus

I.G. of Police, Punjab & others

....Respondents

Petitioner: In person
For the petitioner: Mr. Zulfiqar Ahmad Bhutta, ASC
(Const.P.22/05) Ch. Muhammad Akram, AOR

For the respondents: Mr. Makhdoom Ali Khan
Attorney General For Pakistan
Mr. Aftab Iqbal Chaudhry, AG (Pb.)
Mrs. Afshan Ghazanfar, AAG (Pb.)
Rao Muhammad Nawaz Kharal, ASC
Mr. Mehr Khan Malik, AOR
Syed Zafar Ali Shah, Sr. ASC
Mr. Aslam Tareen, SSP
Muhammad Rizwan, Inspector

Date of hearing: 8.11.2005

ORDER

Learned Advocate General, Punjab had submitted the report of investigation team, copy of which was supplied to the Attorney General for Pakistan and other counsel appearing for the parties. A perusal of report indicates that the culprits have not been found guilty for the commission of offence of abduction and rape. On this learned Attorney General read out different statements from the inquiry report compiled by DIG Zafar Ahmad Qureshi and SP Saad Akhtar Bharwana and stated that on the basis of same, sufficient material is available against the culprits to establish charge of abduction and rape against them. He also read out the statements of Ch. Anwar, Khurshid Begum and Sajila Sehr recorded by investigating team and argued that there is substance in the evidence to challan them for the

offence of rape etc. When inquired from Mr. Aslam Tareen, SSP, one of the members of the investigation team as to whether physical anatomy of SP Abdullah Khalid and Inspector Jamshed Chishti was got identified from Mst. Sonia, he said no! Similarly he said that mobile camera has been taken into possession which was statedly possessed by S.I Fayyaz Ahsan. According to him there were certain nude pictures in the camera but he could not know whether same are of Mst. Sonia Naz or of someone else. On our quarry he also stated that no other officer except SP Abdullah Khalid and Inspector Jamshed Chishti were involved or examined in this case in light of the evidence which has been collected by police.

3. Learned Attorney General in view of the statement of Muhammad Aslam Tareen contended that investigation has not been conducted properly and final report is contrary to the evidence available on record. On this, Advocate General stated in writing that some more time be given to the investigating team to further probe into the matter and to reevaluate evidence available on record.

4. Request is allowed. Adjourned to 14th November 2005.

Islamabad, the
8th November 2005

Nisar/*


10/11

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT

Mr. Justice Iftikhar Muhammad Chaudhry, CJ.
Mr. Justice M. Javed Buttar
Mr. Justice Tassaduq Hussain Jilani

SUO MOTO CASE NO.12 OF 2005 A/W
CONSTITUTION PETITION NO.22 OF 2005.

(Abduction and Rape of Mst. Sonia Naz)

Sonia Naz *Petitioner*

Versus

Inspector General of Police, *Respondents.*
Punjab & others

Petitioner : *In person.*

For the respondents : *Mr. Aftab Iqbal Chaudhry, AG*
Mrs. Naheeda Mehboob Elahi, DAG
Mrs. Afshan Ghazanffar, AAG
Rao Muhammad Nawaz Kharal, ASC
Mr. Mehr Khan Malik, AOR
Sardar Latif Khan Khosa, ASC
Mr. M. Aslam Tareen, SSP.

For the petitioner. : *Mr. Zulfiqar Ahmed Bhutta, ASC*
(Const.P.22/05) *Ch. Muhammad Akram, AOR*

Respondents. : *Not represented.*

Date of hearing : *14-11-2005*

ORDER

Learned Advocate General has submitted a report. Concluding para therefrom is reproduced herein below : -

"During the course of Investigation, no direct evidence has come on record against the accused. However, keeping in view the statements of Sonia Naz, her mother-in-law and father-in-law, members of the Police Enquiry Team, Sajila Sehr, owner of beauty parlor coupled with other evidence brought on record, SHO Satto Katla is being directed to submit challan in court against both the accused U/s 10, 11, 16, 18/7/79 H.O. 344/506/354/356 PPC read with 155/156 of Police Order 2002 to face trial before the court of competent jurisdiction."

Learned Advocate appearing on behalf of SP Abdullah Khalid and Inspector Jamshed Iqbal Chishti had filed statement raising few legal objections. In our opinion examination of these legal objections and dilating upon them at this stage, is not called for, lest it will cause prejudice to the case of either the party, therefore, we direct that let the Police proceed in view of the concluding para which has been reproduced herein above. Concerned Court before whom challan is submitted shall decide the case on merits, independently, without being influenced in any manner from instant proceedings.

Date in office.

*Islamabad
14-11-2005*

*MS/**

*MS
14/11*

**FACT SHEET FOR EXAMINATION OF
HUMAN RIGHT CASES.**

1. **COMPLAINANT:** Women Prisoners, Women Jail, Lahore.

2. **NOTING BY HCJ:** It is a serious matter in respect of female prisoners through out the Country. Put up a comprehensive note on an early date.

3. **PROBLEM:** The complainants state that the former Chief Justice of Pakistan ordered for conducting visits of Jails but the judiciary was scared by the incident of killing of Judges in Sialkot Jail. Now if any rare visit is scheduled, the Judges do not visit with full concentration and devotion because of the looming fears of death and do not ask from the Administration regarding the problems whatsoever. Judiciary does not take notice of such problem except those whereupon the Government is pleased because judiciary gets salary from the Government. There is only one Jail for women in the Provincial Capital, Lahore wherein: -

- (a) It has capacity of 50 prisoners.
- (b) whereas 127 prisoners has been confined.
- (c) Two women sleep on one *Khad*. Many Political leaders and Ministers promised that the adjacent Barak would be completed soon but all proved allusion so far.
- (d) Note Lady doctor has been appointed despite a promise.
- (e) Three mental patients prisoners, namely Zaib-un-Nisa, Bilkees and Sharifaan are not separated who are creating problems for other normal inmates. Many time Jail Superintendent was told but all in vain.
- (f) Case of Zaib-un-Nisa has been tried in Courts for the last 10 years with no result whatsoever.
- (g) A post of LHV was sectioned three years back, no implementation so far.

Further state that the long the matter is not aired by BBC or any other International Broadcasting Agency, the Judiciary, the Administration and I.G, Prisons would not do anything for them.

4. **RIGHTS VIOLATED:** Articles 3, 4, 9, 14 and 25 of the Constitution of Pakistan.

5. **REMARKS:** This is a matter of concern for Pakistan, broadly speaking, for the word as well. According to Article 10 (1) of the International Convention on Civil and Political Rights (ICCPR) states, "All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person". The *Standard Minimum Rules for the Treatment of Prisoner* specify that "the regime of the Institution should seek to minimize any differences between prison life and the life in liberty which tend to lesson the responsibility of the prisoners or the respect due to their dignity as human beings". Human dignity mean humane treatment that must be interpreted in the context of obligation to prevent violence against women. The UN

(Cont. from pre-page)

Declaration on the elimination of violence against women makes clear that the violence against women includes Physical, Sexual and Psychological violence that is perpetrated or condoned by the State (Women in Prison by Megan Bastic).

The main object of detention is to provide an environment conducive for rehabilitation. Women being vulnerable section of society deserves more open and more facilitative environment in Prisons. Therefore indispensable necessities have be provided in the exiting laws dealing with the subject. Each Barak of the prisons are supposed to accommodate certain number of prisoners, more than that number of prisoners in the prison give rise to hygienical problem in general. In other words, the detention of more than suppose to be detained number of prisoners is violative of fundamental right of prisoners and against the object of detention—rehabilitation of prisoner.

With regard to the complaint of not providing and posting lady doctor, if assume to be correct, it is responsibility of the Islamic State to provide Medical facility, otherwise violative of the right of life protected under the Article 9 of the Constitution of Pakistan.

With regard to the complaint of the detention of mental/unsound prisoners with the normal prisoner is also violative of the fundamental right protected in the Constitution and Chapter 18, Rule 435 of Pakistan Prison Rules which states "Every person supposed or found to be mental patient, whether detained or confined in a prison shall be kept separate from the other prisoners".

If approved the Registrar, Lahore High Court, Lahore may be asked to arrange visit of some Judicial Officers to the Women Jail and submit a comprehensive report.

J.A(H.R. Cell)
30-09-2005

Sr.R&R.O

12 30/9/05

Registrar

HES
+ .6- AS at A
57/10

5.10.05