

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5972 of 2022

Kaushik Ranjan

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Petitioner : Ms. Shama Sinha, Advocate
For the Respondent State: Mr. P.K.Sahi, Advocate General
Mr. P.K.Verma, AAG-3
Mr. Suman Kumar Jha, AC to AAG 3
For the Respondent UoI: Dr. K.N. Singh, Addl. Solicitor General
Mr. Kumar Priya Ranjan, CGC
Mr. Ankur Apurv Singh, Advocate
For the Respondent High Court: Mr. Satyabir Bharti, Advocate
Mr. Abhishek Anand, Advocate
Ms. Kanu Priya, Advocate
Ms. Sushmita Sharma, Advocate
For the Respondent Bar Council: Mr. Shantanu Kumar, Advocate

CORAM: HONOURABLE THE ACTING CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

9 10-02-2023 Pursuant to this Court's Order dated 09.02.2023, Sri Rajesh Narayan Sewak Pandey, Member Secretary, Bihar State Legal Services Authority, Patna, is present.

2. This Court has felt the necessity of his presence in view of the nature of issues, which have arisen in the present writ application, filed in the nature of public interest litigation, for effective implementation of Chapter-XXI-A of the Code of Criminal Procedure (CrPC), which deals with disposal of the criminal cases through "plea bargaining". Section 265-A of the



CrPC lays down the circumstances in which Chapter-XXI-A thereof applies in respect of the accused persons and reads as under: -

“265-A. Application of the chapter.—(1) This chapter shall apply in respect of an accused against whom—

(a) the report has been forwarded by the officer in charge of the police station under Section 173 alleging therein that an offence appears to have been committed by him other than an offence for which the punishment of death or of imprisonment for life or of imprisonment for a term exceeding seven years has been provided under the law for the time being in force; or

(b) a Magistrate has taken cognizance of an offence on complaint, other than an offence for which the punishment of death or of imprisonment for life or of imprisonment for a term exceeding seven years, has been provided under the law for the time being in force, and after examining complainant and witnesses under Section 200, issued the process under Section 204,

but does not apply where such offence affects the socio-economic condition of the country or has been committed against a woman, or a child below the age of fourteen years.



(2) For the purposes of subsection (1), the Central Government shall, by notification, determine the offences under the law for the time being in force which shall be the offences affecting the socio-economic condition of the country.”

3. The first and the foremost step, which, in the Court’s opinion, should be taken to effectively implement the provisions of Chapter-XXI-A is to identify cases covered under Section 265-A of the CrPC and the persons, who are accused in such cases. The said exercise, in the Court’s opinion, would furnish a data-base for preparing a vision document/future plans.

4. The second foremost exercise, in the Court’s opinion, should be sensitizing and educating such accused persons covered under Section 265-A of the CrPC about the benefits of plea bargaining and the adverse effects of not availing such benefits. This exercise of legal education/legal awareness can be undertaken not only through workshops in the jail premises, but also in the concerned court premises, ADR building and other suitable places.

5. We direct the Member Secretary, Bihar State Legal Services Authority, Patna (BSLSA), to present before this Court a concrete proposal as to how the BSLSA shall proceed to



achieve what have been noted hereinabove.

6. In the present writ application, certain figures have been mentioned in paragraph 9 of the writ application against various heads as under: -

S. No.	Delay Reason	Count
	Difficulty in Securing presence of important witness	258435
	Even one case of 1968 is pending at this stage along with cases of 1970s	
	Non availability of Counsel	694739
	Number of witnesses is more than 20	331
	One or more accused absconding/not appearing	428052
	Parties not interested – Infructuous litigation	66124
	Record not available	4499
	Stayed for other reasons	520596

7. This writ application was filed on 21.04.2022, wherein, based on the statistics available on National Judicial Data Grid (NJDG), number of cases pending against various heads, as have been noted above, have been given. The figures, in the Court's opinion, are alarming. Certain doubts have, however, been raised at the Bar about the correctness of the said figures compared to the actual figure.

8. Ms. Shama Sinha, learned counsel appearing on behalf of the petitioner, has placed before us the present status of the data available at NJDG, which shows rise in the figures



from the date of filing of the writ petition. According to her, following is the figure of cases against different heads as on 23.01.2023: -

S. No.	Delay Reason	Count
1.	Awaiting for documents	220227
2.	Difficulty in securing presence of important witness	259275
3.	Frequent challenge to interim/interlocutory orders	22420
4.	LRs or new parties could not be brought on record	1372
5.	Miscellaneous application delaying the process of the main case	538
6.	Non availability of Counsel	720621
7.	Number of witness is more than 20	366
8.	Obstructions in service of process in execution of decree	577
9.	One or more accused absconding/not appearing	437315
10.	Parties not interested – Infructuous litigation	67811
11.	Record not available for the reason	4153
12.	Stayed by Court other than Supreme Court or High Court (District Court/Other Court)	232
13.	Stayed by High Court	960
14.	Stayed for other reasons	572204

9. We have kept on record the data, which has been submitted by learned counsel for the petitioner.

10. The data, as noted above, is truly alarming. After verification of the number of cases against various heads from the actual records, the Court will consider passing appropriate



orders. In the said data, it is mentioned that there are 720621 cases pending because of non-availability of counsel. In order to deal with the said item, we direct the Member Secretary, Bihar State Legal Services Authority to seek reports through the respective Secretaries of the District Legal Service Authorities as regards such criminal cases, which are pending because of non-availability of learned counsel. The Bihar State Legal Services Authority shall be thereafter required to compile the figures received from the District Legal Service Authorities for presenting the same before this Court.

11. It goes without saying that if any District Legal Service Authority finds, while preparing the data for the purpose of implementation of the present order, that a criminal case is pending because of non-availability of a counsel for the accused, it shall be required to provide such accused persons necessary legal aid.

12. There is another figure, which is quite interesting, i.e., where the parties are not interested in pursuing the matters and cases have become infructuous. The figure, as shown in the report provided by learned counsel for the petitioner, is 67811. Evidently, the said statistics is based on the information derived from the NJDG. It does not indicate the details of individual



cases. In the Court's opinion, this requires immediate attention of the Chairpersons of the respective District Legal Services Authority, who is the District Judge of the concerned Judgeship. The Chairpersons of all the District Legal Services Authorities are directed firstly to examine the cases which are pending because the parties have lost interest and they have become infructuous. They shall thereafter take immediate steps to do the needful. They shall thereafter communicate the figures, so obtained by them, to the Member Secretary, Bihar State Legal Services Authority, Patna. Bihar State Legal Services Authority shall in its report submit a composite statement of such cases, i.e., cases which have become infructuous for any reason in the opinion of the concerned Chairperson of the District Legal Service Authority.

13. We will be taking up other matters after the aforesaid reports in the form of affidavit are filed by the Bihar State Legal Services Authority.

14. A genuine concern has been expressed by Mr. P.K.Sahi, learned Advocate General, Bihar, about long pendency of the criminal cases, i.e., the cases, which are pending before the criminal courts in different Judgeships for 20 years or more. He has submitted that in most likelihood, most of such cases



would have lost their purpose.

15. For the present, we are requiring the District Judges of the concerned Judgeships to prepare reports giving the details of such Criminal cases which are pending since 2005 and before. We make it clear that while preparing this information, the District Judges shall be required to give the details of the criminal cases with reference to the number of such cases and the penal provisions so as to enable this Court to take a definite decision in the present public interest litigation by issuing necessary guidelines, if required. The said information should be sent to the Bihar State Legal Services Authority, Patna, for the Authority, again, to prepare a composite report in order to facilitate consideration of the issues raised in the present writ application.

16. The District Judges shall also be required to inform through the Legal Services Authority as to in how many criminal cases, the proceedings are not moving forward because of any interim order passed by any court giving the details of such cases and the specific interim orders passed with reference to the Courts, which have passed such orders.

17. The Joint Secretary, Bihar State Legal Services Authority, Patna, Ms. Dhriti Jasleen Sharma, is also present in



Court. It is observed that she would be required to actively coordinate in the entire exercise and while submitting the reports/data by way of affidavit, as indicated above, she would be required to briefly interpret the outcome of such data.

18. List this matter on 03.03.2023.

(Chakradhari Sharan Singh, ACJ)

(Partha Sarthy, J)

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