

**HIGH COURT OF TRIPURA
AGARTALA**

WP(Crl.) No.1 of 2023

Sri Lachit Das, S/o Sri Lakheswa Das, resident of Village-Ulubari, P.O. Thamna, P.S.-Mushalpur, District – Baksa (Assam), Pin-781377.

..... Petitioner(s).

Versus

1. The Union of India, Secretary to the Home Affairs, Government of India, New Delhi.
2. The Commandant of 140 Bn., CRPF, Betbagan, Ambassa, Dhalai District, Tripura.
3. The State of Tripura represented by the Home Secretary to the Government of Tripura, Home Department having his office in the Secretariat, Kunjaban, Agartala, West Tripura.
4. The Director General of Police, having his office in the Police Head Quarters, Agartala, West Tripura.
5. The Superintendent of Police, having his office in Jawharnager, Dhalai District, Tripura.
6. The Officer-in-Charge, Ambassa police station, P.O & P.S–Ambassa, District-Dhalai, Tripura.

..... Respondent(s).

7. The Superintendent of Police, P.O. Mushalpur, Baksa District, Assam, Pin-781346.
8. The Officer-in-Charge, Mushalpur Police Station, P.O. Mushalpur, District-Baksa, Assam, Pin-781373.

..... Proforma Respondent(s).

For Petitioner(s) : Mr. J. Majumder, Advocate.

For Respondent(s) : Mr. B. Majuder, Deputy SGI,
Mr. S. Debnath, Addl. PP.

**HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH
HON'BLE MR. JUSTICE T. AMARNATH GOUD**

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29/05/2023

Heard Mr. J. Majumder learned counsel for the petitioner.

Also heard Mr. B. Majumder, learned Deputy SGI together with Mr. S. Debnath, Additional Public Prosecutor for the respondents.

[2] Petitioner is the brother of the deceased who approached this Court for proper investigation in connection with ABS PS UD Case No.2022ABS012 instituted in relation to the death of his brother, namely, Kamal Das, Sepoy under the Central Reserved Police Force(CRPF) since 2017 having Force number 175335346 while he was discharging duties as a Constable/General Duty under 140 Bn. Headquarter, at Betbagan, Ambassa in the District of Dhalai, Tripura. Petitioner alleged that on 07.07.2022 at about 7:30 am, a CRPF employee, namely, Sashanka Kalita, who was from the nearby village of the petitioner working under 140 Bn. CRPF informed him that his brother had been found dead. Thereafter, Sri Monoj Kumar, Commandant, 140 Bn. Headquarter, Betbagan informed him over mobile phone that Kamal Das had committed suicide at about 10:48 pm on 06.07.2022 at the gymnasium of the Battalion. He also saw a photo of the deceased brother on the same day in a hanging position in social media. Thereafter, he filed an FIR stating that he and his family members doubted the story of suicide as reported by the Commandant, CRPF, Ambassa. He

prayed for proper investigation of the case. Petitioner claims to have filed a GD Entry No.109 dated 07.07.2022 at Mushalpur Police Station relating to the occurrence asking it to be forwarded to the local Police Station by post. Petitioner has alleged that from information gathered from reliable sources, he came to know that four unknown persons who were alleged to be men of respondent No.2, came to the barrack of Kamal Das and entrusted him to make some arrangements for their entertainment. He further alleged that the Deputy Commandant (DC) also told the petitioner that two mobile phones were found with Kamal Das which were deposited to the police. Two CRPF jawans informed the petitioner that they used to sleep in the same room with Kamal Das and on 06.07.2022 at about 09:00 pm they had fitted curtains of their beds, switched off the lights and were going to sleep when a call came to Kamal Das and he went out of the room. It was only next morning that the news of death of their roommate became known.

[3] Mr. J. Majumder, learned counsel for the petitioner submits that the Investigating Officer informed him that the CRPF had deposited only one mobile phone bearing number 7896683905. Suspecting some foul play in the death of his brother, petitioner has sought for proper investigation as according to him, his brother was having an affair with a girl, daughter of Deputy Superintendent of Tripura Police and had planned to get married in December, 2022. It is, therefore, likely that he has been killed because of

such intimacy. The investigation has not been carried out in the right direction.

[4] On 15th May, 2023 when the matter was taken up, Mr. S. Debnath, learned Additional Public Prosecutor was asked to seek instructions and file counter affidavit. The counter-affidavit filed by the respondents No.3, 4, 5 & 6 *inter alia* refers to the institution of the UD FIR case in connection with the death of Kamal Das in which timely investigation was taken up by Ambassa PS. The Ambassa PS received one petition of the present petitioner, brother of the deceased, through post forwarded by the Officer-in-Charge, Mashulpur PS, Assam. Since the investigation was already going on, hence, the complaint petition was entered in Ambassa PS GD vide GDE No.42 dated 13.07.2022 and tagged with the UD case records, since the complaint petition did not directly disclose commission of offence under Section 302 of IPC. Investigation has, thereafter been carried out by interrogation of several persons. The affidavit further states that the Investigating Officer after examination of the available witnesses of 140 Bn. CRPF, Bet Camp, also collected evidence along with the post-mortem report wherefrom it is evident that death was due to Asphyxia due to hanging. No foul play was detected behind the death of the deceased No.17533346, Kamal Das. Hence, final form was submitted being Ambassa PS F/R No.03 dated 08.03.2023 (Annexure-B).

[5] Mr. Majumder, learned counsel for the petitioner however submits that the investigation has not been carried out in the right direction and the case has been made to look, as if, that of suicide. He submitted that the Investigating Officer has not referred to the statements in the final form of other vital witnesses who were interrogated during investigation. The background story in connection with the death of his brother in mysterious circumstances has not been properly investigated. Petitioner suspects that the real culprits have been let go. Therefore, this Court may consider directing proper investigation in the matter.

[6] Mr. S. Debnath, learned Additional Public Prosecutor submits that petitioner has an adequate remedy under the Code of Criminal Procedure to lodge a protest petition in case he is not satisfied with the final form submitted by the police. The learned Chief Judicial Magistrate may examine the matter before closing the case on the basis of the final form.

[7] We have considered the submissions of learned counsel for the parties. Having regard to the facts alleged in the writ petition and the averments made in the counter-affidavit, we are of the view that the petitioner has an adequate remedy under the Code of Criminal Procedure upon submission of the final form by filing a protest petition before the concerned Court since the complaint petition of the petitioner was also attached with the UD case which was already registered in connection with the incidence. As such, it is not proper for this Court in exercise of writ

jurisdiction to weigh the materials collected by the investigating agency *vis-a-vis* the allegations made by the petitioner as the Code of Criminal Procedure provides for adequate remedy for an aggrieved complainant in such circumstances. Any comments in respect of the case of the parties would rather prejudice the final outcome of the proceedings.

[8] As such, without making any observations on merits of the case, the instant petition is disposed of with liberty to the petitioner to approach the concerned Court of Chief Judicial Magistrate, Dhalai, Ambassa with a proper protest petition, in accordance with law.

Pending application(s), if any, also stands disposed of.

(T. AMARNATH GOUD), J

(APARESH KUMAR SINGH), CJ

