

HIGH COURT OF TRIPURA
AGARTALA

CRL PETN 58 OF 2022

Seli Pal (Som) Vrs. The State of Tripura & Ors.

Present:

For the petitioner(s) : Mr. P. Roy Barman, Sr. Advocate.
Mr. K. Chakraborty, Advocate.

For the respondent(s) : Mr. S. Debnath, Addl. P.P.

HON'BLE MR.JUSTICE ARINDAM LODH

14.07.2023

Order

This is a petition filed by the petitioner praying for further investigation of the West Agartala PS Case No.267/11 dated 05.08.2011, which is charge-sheeted vide charge-sheet No.38/2016, dated 30th April,2016.

Mr. Roy Barman, learned senior counsel assisted by Mr. K. Chakraborty, learned counsel appearing for the petitioner has submitted that the husband of the petitioner was abducted by some miscreants in the year 2011. The petitioner lodged an FIR. Thereafter, she filed a writ petition before this court. This court while disposing of the writ petition directed the respondents to investigate the matter. Accordingly, investigation was carried out and in the year 2016 charge-sheet has been filed. It is pertinent to mention herein that in reply to the earlier round of litigation, the respondents disclosed the fact that one Nakib Ali was the key person behind the kidnapping of the husband of the petitioner. But, Nakib Ali was not traceable at that relevant point of time because, according to the information of the investigating agency, Nakib Ali left India and started to reside in Saudi Arabia. The petitioner being the wife of the victim had

received a copy of the charge-sheet wherein she found that the name of Nakib Ali was not shown. In the meantime, the petitioner had noticed that Nakib Ali returned to India and started to reside in a place within the jurisdiction of Kailashahar P.S. Having noticed Nakib Ali in the area, the petitioner has filed an application under Section 156(3) of CrPC for further investigation of the matter before the court of learned Chief Judicial Magistrate, West Tripura, Agartala. Learned Chief Judicial Magistrate vide order dated 20.04.2021 had rejected the said prayer of the petitioner. After rejection of her prayer, the petitioner had submitted a representation to the Investigating Officer, Superintendent of Police and the Director General of Police, Tripura praying for further investigation as regards the role of Nakib Ali behind the abduction of her husband in the year 2011.

Having found no response and aggrieved thereby, the petitioner approached this court to exercise its inherent power under Section 482 of CrPC.

I have considered the submissions advanced by learned counsel appearing for the parties as well as the order dated 20.04.2021 passed by learned Chief Judicial Magistrate, West Tripura, Agartala. One basic fact in the instant case which has come to light is that after the alleged kidnap of the husband of the petitioner, she lodged a complaint to the police station, the police started investigation and during investigation, the name of Nakib Ali was transpired. But, according to the respondents, he was not traceable in India as he left India and started to live in Saudi Arabia. So, the name of Nakib Ali appeared during investigation at the very initial stage. In the charge-sheet filed by the police it is stated that “*Md. Nakib Ali could not be examined as he left for Saudi Arabia on 23.09.2011 by Soudi Airlines Flight No.SV 749 Mumbai-Jeddah via Riyadh.*” A prayer was made before the learned CJM, West Triura on 11/09/2014 as per provision of Section 105(B)(2) of CrPC for issuance of summon against

Md. Nakib Ali to facilitate his presence before the I/O for his examination in the interest of investigation. However, no complete address of Md. Nakib Ali in Soudi Arabia could be collected and furnished before the learned court as sought for. Further investigation into the matter is on.” [para 28 of the charge-sheet].

This court has further noticed that at para 30 of the charge-sheet, the I.O. has reported that *“further investigation of the case will be launched in the wake of revelation of any fresh evidence in this case.”*

So, a bare perusal of the above statements made in the charge-sheet crystallize that Md. Nakib Ali was much needed for the purpose of investigation and he could not be examined only because of the fact that he fled away to Saudi Arabia.

In view of the aforesaid statements as quoted here-in-above, in the opinion of this court, Md. Nakib Ali’s examination is required to render complete justice and the representation filed by the petitioner i.e. the wife of the victim should have been responded to by the State-respondent herein. The investigating officer himself has kept his investigation open as and when whereabouts of Nakib Ali would be available.

Learned Chief Judicial Magistrate, West Tripura, Agartala, also has not considered the fact that the I.O. himself in his final report has stated that there will be further investigation as and when Md. Nakib Ali would be available.

In view of this, I direct the Investigating Officer to further investigate the matter as regards the role and complicity of Md. Nakib Ali in connection with the instant case within a reasonable period.

With the aforesaid observations and directions, the instant criminal petition stands allowed.

Registry is directed to communicate a copy of this order to the learned Chief Judicial Magistrate, West Tripura, Agartala, to proceed in accordance with law.

JUDGE

SANJAY GHOSH

Digitally signed by SANJAY GHOSH
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