

HIGH COURT OF TRIPURA
_A_G_A_R_T_A_L_A_
WP(C)(HC) No.04 of 2024

Sri Bimal Das son of late Rai Mohan Das, Village- Bhairab Nagar, P.O. Chottakhola, P.S. P.R. Bari, South Tripura.

..... Petitioner(s)

V E R S U S

1. State of Tripura represented by the Secretary to the Home Department, Government of Tripura, New Secretariat Building, New Capital Complex, 799010.
2. The Director General of Police, Tripura, Government of Tripura, PHQ, Akhaura Road, Agartala, West Tripura, 799001.
3. The Superintendent of Police, South Tripura, Office of the Superintendent of Police, Belonia, South Tripura, 799155.
4. The Officer-in-Charge, P.R. Bari Police Station, Belonia, South Tripura.

.....State Respondent(s).

5. Smt. Kaberi Das, wife of Sri Sahadeb Das.
 6. Sri Jyotilal Das, son of Raimohon Das.
 7. Smt. Simuli Das, wife of Sri Jyotilal Das.
 8. Sri Satyanarayan Debnath, Son of Sri Sibu Debnath.
- All are resident of Siddhinagar, Sukanta Colony, P.S.- P.R. Bari, Belonia, South Tripura.
9. Sri Dipak Das, son of Sri Khitish Das.
 10. Sri Dipankar Das, son of Sri Khitish Das.
- Both are resident of Bharatmanju Para, Dimatali, P.S. P.R Bari, Belonia, South Tripura.

..... Respondent(s)

For Petitioner(s) : Mr. Ratan Datta, Advocate

For Respondent(s) : Mr. Raju Datta, Public Prosecutor.

HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH
HON'BLE MR. JUSTICE S.D. PURKAYASTHA

=O=R=D=E=R=

06/08/2024

Heard Mr. Ratan Datta, learned counsel appearing for the petitioner and also heard Mr. Raju Datta, learned Public Prosecutor appearing for the respondents-State.

[2] The instant petition in the nature of Habeas Corpus petition was instituted by the petitioner, who is the brother of one Sahadeb Das, a government teacher. He apprehended that his brother has been illegally detained by the private respondents who are the wife and his relatives. The marriage between petitioner's brother and respondent No.5 was solemnized on 05.07.2023. Petitioner's brother had been missing since 27.02.2024. Petitioner suspected that his brother might have been killed and his body disposed of by the accused persons. Petitioner also complained that the police have not lodged the formal FIR despite complaint. Therefore, he had approached this Court for production of his brother.

[3] Learned Public Prosecutor was directed to seek instructions and file counter-affidavit, by order dated 01.04.2024. Investigating Agency was also directed to make efforts to trace the person and produce him before the Court on the next date. Respondents No.1 to 4 have filed counter-affidavit. Specific statements have been made at paragraphs-3, 5, 6, 8 and other places that two FIRs have been registered; one under Sections 328/379 read with Section 34 of the IPC bearing No.2023/PRB/073 dated 30.10.2023 and the other bearing No.2024/PRB/014 dated 07.04.2024 under Section 365 read with Section 34 of the IPC naming 5(five) accused persons who are also the private respondents. According to them, investigation is progressing in right earnest and the accused persons have been summoned to appear on 25.04.2024. Communications have been sent to several authorities, i.e. Annexures-2 to 12 to inform about the missing person, brother of the petitioner. The call records of the victim have also been obtained. It reveals that the maximum conversation has been between the victim with his

brother, the petitioner. It is also pointed out that the victim's bank account was operated twice on 10.03.2024. The victim had a matrimonial dispute and there were earlier allegations of forceful poisoning by insecticide of the victim by the accused persons which he survived after remaining in hospital for few days. However, at this stage, since the investigation is underway, the respondents are not in a position to categorically pinpoint as to the whereabouts of the victim.

[4] Taking into account that the allegations in the FIR were also directed against the respondents No.9 and 10 who are constables in the P.R. Bari Police Station where the FIR has been registered, the investigation was directed to be supervised by the Superintendent of Police, South Tripura, District. Further progress in the investigation was brought on record through an additional counter-affidavit filed on 13.05.2024. It was indicated that certain accused persons were called on notice under Section 41(A) of Cr.P.C and their statements were also recorded. The CCTV footage of the ATM counter was scrutinized. However, no clear clue as to the missing person and the involvement of the accused persons had yet been arrived at. On behalf of the respondents, this Court was informed that the investigation has progressed further and if the case is found true, a charge-sheet would be filed. Thereafter, another additional counter-affidavit has been filed by the respondents No.1 to 4 where at paragraph 4, the following statements have been made:

“4. That after submissions of the aforesaid counter affidavit, the Superintendent of Police, South Tripura District in connection with PR Bari Case No.2024 PRB 014 dated 07.04.2024 under Section 365/34 of IPC, issued a message vide No.24284-403/F.4/SP/CS/SD/BLN/24 dated 10.07.2024 to All DIGs, CID of all States/UTs/All SPs of Tripura, All OC PSs Tripura/GRPs Tripura and informed that on 28.02.2024 one Sri Bimal Das, son of late Rai Mohan Das of Bhairabnagar, Chottakhola, P.S. P.R Bari, South Tripura appeared at PS and

submitted a written information that on 07.02.2024 his brother namely Sri Sahadeb Das(32) son of late Rai Mohan Das of Bhairabnagar, Chottakhola, P.S. PR Bari, South Tripura found missing. It was also informed that based on the missing information an entry was made which refer to PR Bari PS GDE No.19 dated 28.02.2024 and OC PR Bari PS has taken up the enquiry and during enquiry all efforts including publication in local daily newspaper to recover the missing person but that has not yielded any good result. In the said message, the name, address and particulars of Sri Sahadeb Das along with his recent photograph has been enclosed. All the officials have been requested to intimate Officer-In-Charge of PS Bari, SP(DIB) Control, South Tripura Belonia office over mobile or through email, if any information is found about the missing person. Sources have been often deployed for gathering secret information, if any.”

[5] Learned Public Prosecutor submits that the Investigating Agency has made sincere efforts to widely publicize the details of the missing person in local daily newspapers to recover him but it has not yielded any good result. Learned Public Prosecutor submits that the Investigating Agency has been taking all diligent steps to reach to the bottom of the case and if it is found true the accused persons shall be arraigned by filing charge-sheet.

[6] Learned counsel for the petitioner submits that since February, the investigation has been going on at a tardy pace. Even pursuant to this Court's order dated 23.04.2024, the progress has not been satisfactory. It is only as late in July that they have issued publication in newspapers about the missing person. Therefore, this Court may direct the investigating authorities to conclude the investigation in a time bound manner and apprehend the accused persons.

[7] We have considered the submissions of learned counsel for the parties and taken note of the progress of the investigation in respect of the complaint of missing of the petitioner's brother. It appears that despite some progress made in the investigation by calling the accused persons for

recording their statements under Section 41(A) of Cr.P.C, no conclusive evidence has come as to the whereabouts of the missing person. In such a case, we deem it proper to direct the Investigating Agency to conclude the investigation in a time bound manner and trace the missing person if his whereabouts are ascertained. In any case, the investigation cannot be allowed to go aimlessly. As such, the Superintendent of Police, South Tripura District is directed to ensure that the investigation in respect of the FIRs is concluded in a reasonable time preferably within a period of 3(three) months from the date of receipt of copy of this order.

[8] With these observations, the instant petition is disposed of. Pending application(s), if any, also stands disposed of.

(S.D. PURKAYASTHA) J

(APARESH KUMAR SINGH) CJ

DIPESH DEB

Digitally signed by DIPESH DEB
Date: 2024.08.07 18:04:08 +05'30'