

GAHC010233792024



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/5823/2024

MOLIN PAIT
SON OF LATE KOMISON PAIT, RESIDENT OF VILLAGE- 2 NO. SANTIPUR,
POST OFFICE- CHAPAKHOWA, POLICE STATION- SADIYA, DISTRICT-
TINSUKIA, ASSAM, PIN- 786157

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVERNMENT OF
ASSAM, DISPUR, GUWAHATI- 781006

2:THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF
ASSAM
HOME AND POLITICAL DEPARTMENT
DISPUR
GUWAHATI- 781006

3:THE DEPUTY COMMISSIONER
TINSUKIA
ASSAM

4:THE SUPERINTENDENT OF POLICE
TINSUKIA
ASSAM

5:THE OFFICER INCHARGE
SADIYA POLICE STATION
SADIYA
DISTRICT- TINSUKIA
ASSAM

6:THE CENTRAL BUREAU OF INVESTIGATION

REPRESENTED BY THE AUTHORIZED OFFICER
CBI
FIRST FLOOR
OPPOSITE BALAJI TEMPLE
NATIONAL HIGHWAY- 37
POST OFFICE- GORCHUK
GUWAHATI- 78103

For the petitioner : Mr. S. Banik, Advocate
For the respondents : Mr. D.K. Sarmah,
Addl. Sr. Govt. Advocate, Assam
For respondent Nos.1 to 5

– B E F O R E –

HON'BLE THE CHIEF JUSTICE MR. VIJAY BISHNOI
HON'BLE MR. JUSTICE N. UNNI KRISHNAN NAIR

13-11-2024

(Vijay Bishnoi, C.J.)

This writ petition is filed by the petitioner with the prayer to direct the Central Bureau of Investigation (hereinafter to be referred as 'CBI') to conduct independent investigation in connection with Sadiya P.S. Case No.52/2021 registered under Sections 342/304 (A) of the Indian Penal Code. It is also prayed that the respondent authorities be directed to pay suitable compensation to the petitioner for the death of his son in the police custody.

It is seen from the record that the son of the petitioner was arrested on 13.03.2021 in connection with a criminal case registered under Sections 121(B)/302 IPC. The facts reveal that the son of the petitioner died on 14.03.2021 in police custody. The claim of the police was that he committed suicide in the toilet of the Sadiya police station where he was lodged. Raising a doubt on the death of his son, the petitioner lodged the FIR No.52/2021 with the concerned police station. Police investigated the case and after conclusion of

the investigation, final closure report was submitted before the concerned court on 07.01.2022 and the same was accepted by the concerned court on 17.01.2022. The petitioner has not challenged the acceptance of the final closure report by the court any further and straightaway filed this writ petition after more than two years praying for a relief that the CBI be directed to conduct investigation into the FIR lodged by the petitioner at Sadiya police station.

Learned counsel for the petitioner has placed reliance on the decision rendered by the Hon'ble Supreme Court in the case of ***Neetu Kumar Nagaich vs. The State of Rajasthan***, reported in ***(2020) 16 SCC 777*** and has argued that Constitutional Court can issue a direction for fresh investigation by an independent agency. It is submitted that in the present case also, the son of the petitioner died in police custody in a doubtful circumstance and therefore, it is a fit case where a direction can be issued to conduct a *de novo* investigation into the FIR filed by the petitioner.

Having heard the learned counsel for the petitioner and after going through the material available on record, we are of the view that no case for issuing a direction to the CBI to conduct *de novo* investigation into the FIR filed by the petitioner is made out.

Though the Hon'ble Supreme Court in the case of *Neetu Kumar Nagaich (supra)* has observed that in a proper case, order for fresh investigation by an independent agency can be considered, it has also been mentioned that the power may be exercised if the court comes to the conclusion that the investigation was done in a manner to help someone to escape from the clutches of law. In exceptional circumstance only, the court may, in order to prevent miscarriage of justice, direct *de novo* investigation.

As observed earlier, the petitioner has failed to make out an exceptional case and has also failed to satisfy us that the investigation into the FIR filed by the petitioner was done by the police in a manner to help someone to escape from the clutches of law. Hence, no such direction can be issued to the CBI to conduct *de novo* investigation into Sadiya Police Station Case No.52/2021.

However, this order will not preclude the petitioner from seeking suitable compensation for the death of his son in accordance with law.

With these observations, this writ petition is dismissed.

JUDGE

CHIEF JUSTICE

Comparing Assistant