

14.09.2020

Sl. No.3

Ct-13

BM

**IA No.CAN 1/2020
(Old No.CAN 4449/2020)
WPA 6156 OF 2020**

Sentu Sahu

Vs.

The State of West Bengal & Ors.

Mr. Shibaji Kumar Das ... for the petitioner

Mr. Suman De ... for the respondent nos.5 & 6

The petitioner is a tenant under the landlord Bipul Das, respondent no.5 herein and the respondent no.6 namely Somnath Das who happens to be the brother-in-law of said Bipul Das. It is the contention in the petition that minor daughter of the petitioner namely Shivani Sahu @ Shivani Kumari on several occasions had told her father that said Bipul Das, the respondent no.5 had a bad eye towards her and gave her indecent proposal and passed abusive and derogatory comments and remarks towards her. On 18th June, 2020 at about 6 P.M while the petitioner was in his native place in Bihar he received a phone call from his son Subham Kumar Sahu and came to know that at about 4.30 P.M that her minor daughter Shivani Sahu had told his son that she was going to take her bath in the bath room within her room and his son on hearing the same had also gone out of his residence to meet his friends. After an hour when his son returned to

his residence he found that the door was closed and started calling his sister and when he opened the window he saw that the neck of the victim was tied to a nylon rope by the base of the grill of the window and based on the same Nischinda Police Station U.D. case No.16 of 2020 dated 18.06.2020 was initiated by the Police. In connection therewith, post mortem was carried out over the dead body of deceased Shivani Sahu @ Shivani Kumari on 19th June, 2020. The Police authority of the said Police Station refused to accept the complaint from the petitioner on 20th June, 2020 and on 14th July, 2020 the petitioner again lodged complaint to the respondent Police authority as against Bipul Das, brother in law Somnath Das for committing sexual assault on his minor daughter and thereafter committing murder of the deceased.

The facts leading to this case is that the petitioner believe that his daughter would never committed suicide whereas she has been murdered and despite repeated request made to the investigating authority, the authority has ignored.

- a) The post mortem report or any other document collected during investigation in connection with Nischinda Police Station U. D case No.16 of 2020 dated 18th June, 2020 does not indicate the

approximate time of death of his daughter which is highly suspicious.

- b) The son of the petitioner namely Subham Kumar Sahu and the neighbors who were present there upon carefully noticing the dead body of Shivani Sahu @ Shivani Kumari found that certain marks of injury were present in the region of the neck and its adjoining shoulder area which clearly suggested that there was an attempt to throttle her to which she vehemently resisted prior to her death and thereafter she was hanged which was completely absent in the post mortem report for some unknown reasons.
- c) During her stay at their tenanted accommodation at Howrah with the son of the petitioner, the minor daughter Shivani Sahu on several occasions had informed her mother over telephone that despite having knowledge that the petitioner herein and his wife were in Bihar on the pretext of claiming rent and enquiring about their whereabouts, said Bipul Das and his brother-in-law Somnath Das, respondent nos. 5 & 6 herein used to come to their tenanted accommodation and finding his daughter alone they used to touch her physically, molest her and use abusive and derogatory comments and remarks towards her and told her not to disclose the

same to anyone or otherwise she would face dire consequences.

- d) After returning home and after noticing unnatural death of his younger sister in a hanging position, when the son of the petitioner herein out of shock started yelling and screaming and ran to the house of the landlord Bipul Das, respondent no.5 herein to inform him about the same and suspiciously found that he was not in his residence and was told by the second wife of Bipul Das that he along with his brother-in-law Somnath Das about 45 mins back had left their house and gone nearby but no efforts were made on the part of the police authorities of Nischinda Police Station to interrogate the said Bipul Das and his brother-in-law Somnath Das, respondent nos.5 & 6 herein and ascertain from them about their whereabouts at that point of time and also track their location during the time of occurrence of the offence.
- e) Bipul Das and his brother-in-law Somnath Das, respondent nos.5 & 6 herein thereafter arrived at the hospital and thereafter in the hospital, the police authorities and subsequently before the press media they for some ill-motive started pressuring the son of the petitioner herein did not have a mobile phone to attend her online classes and hence

she was upset and had thus committed suicide. The son of the petitioner herein under such circumstances believing their words stated so which is absolutely absurd as the petitioner herein is a truck Driver by occupation and at least has the minimum financial resources to buy a smart phone for his daughter and further that his daughter was all along good in her studies for which the same could not have been a reason at all behind her unnatural death.

- f) The manner and circumstances in which minor daughter of the petitioner herein had died unnaturally were extremely doubtful as it is impossible for her to die by committing suicide in such a way by tying her neck with a rope by the base of the grill of the window which is approximately 2 ½ feet from the floor and more particularly when there were injury marks over her body which were absent in the post mortem report due to some unknown reasons and more particularly when she was 5 feet 3 inches in height which will be evident from the post mortem report.

It is further contended that after filing of this writ application on 30th July, 2020 and pursuant to the complaint lodged by the Commissioner,

Nischinda Police Station case No.149/2020 dated 3.8.2020 under Section 302/34 and under Section 8 of POCSO Act has been started against the said Bipul Das and Somnath Das but no proper investigation has yet has been conducted, none of the inmates of the family has been examined by recording their statement under Section 161 of the Code of Criminal Procedure and thus the inaction on the part of the Police being reported and complained of in this writ application.

Accordingly, the petitioner has sought for issuance of a writ in the nature of mandamus directing person of the investigation from the respondent Police authority of Nischinda Police Station, Howrah City Police Commissioner in connection with unnatural death of the daughter of the petitioner registered against the private respondent nos.5 & 6 based on the complaint dated 14th July, 2020 and the UD Case No.16 of 2020 dated 18th June, 2020 to the Criminal Investigation Department or to any other independent investigation on the ground of non-registration of a criminal proceeding.

I have heard the learned advocate for the petitioner and also Mr. Suman De, learned advocate for the private respondent. Despite service effected

upon the State there is no representation for the State.

This writ application is disposed of with the direction that Commissioner, Howrah City Police Commissionerate will personally look into the matter and will get the investigation monitored under his supervision.

Thus, this writ petition is disposed of and the connected application being I.A. No. CAN 1/2020, (Old No.CAN 4449/2020) is also disposed of.

(Shivakant Prasad, J.)