

16.09.2020
srm

**W.P.A. No. 6202 of 2020
CAN 1 of 2020 (Old CAN 4532 of 2020)**

(Via Video Conference)

**Dolon Kumar Mondal
Vs.
The State of West Bengal & Ors.**

Mr. Kamal Kanta Kar

...for the Petitioner.

Mr. Shibaji Kumar Das

...for the Respondent Nos.3 & 4.

Mr. Amitesh Banerjee,

Ms. Ipsita Banerjee

...for the State.

Affidavit of service is taken on record.

The writ petition is taken up for hearing through video conferencing in view of the urgency.

The application being CAN 1 of 2020 (Old No. CAN 4534 of 2020) is disposed of.

This is an application challenging medical negligence committed by the respondent Nos.3 and 4. It is alleged that although a complaint was lodged with the Officer-in-Charge, Kharagpur Police Station but no steps have yet been taken by the said police authorities. It is alleged that the respondent Nos.3 and 4 did not treat the petitioner's mother in accordance with the norms prescribed by the Medical Council and they were guilty of rash and negligent acts.

Records do not show that any complaint was lodged before the Kharagpur Police Station

Mr. Amitesh Banerjee, learned Senior Standing Counsel, appearing on behalf of the State-respondents, submits that without any complaint before the police the question of registering an FIR did not arise. Moreover, he submits that the petitioner does not make out a case of commission of a cognizable offence.

Learned Advocate for the respondent Nos.3 and 4 submits that there is nothing on record to show that an expert opinion has been obtained by the petitioner stating that there has been medical negligence on the part of the Doctors. Thus, he submits that it is settled by the Hon'ble Apex Court that an FIR cannot be registered without any expert opinion.

As the petitioner has not even filed any complaint before the concerned police station, the writ petition cannot be entertained. However, the petitioner is at liberty to approach the learned Magistrate under having jurisdiction Section 156(3) of the Cr.P.C. or any other Regulating Body or the Medical Council of India for his reliefs.

As no affidavits have been called for all the allegations against the respondents are deemed to have been denied.

This writ petition is disposed of.

There will be however no order as to costs.

Urgent certified website copies of this order, if applied for, be delivered to the parties, upon compliance of all necessary formalities.

(Shampa Sarkar, J.)