

16.10.2020

ar/gd

MAT 704 of 2020
with
CAN 1 of 2020

State of West Bengal and Ors.
Vs.
Swapnan Ghorai and Ors.

Mr. Kishore Datta
Mr. Abhratosh Majumdar
Mr. Talay Masood Siddiqui
Mr. Debasish Ghosh
Mr. Sayan Sinha

..for the Appellants.

Mr. Firoz Edulzi
Mr. Brajesh Jha

..for the Respondent No.1.

The appeal has been taken up by special assignment in chambers at about 7.30 pm.

The direction by the Single Bench for a second post-mortem examination to be conducted is questioned in the appeal.

It is evident that the writ petition was moved on short notice and the State may not have been able to present its case. The writ petitioner could not be blamed either since the body of the deceased had been released to the family on October 15, 2020 and the prayer for a second post-mortem examination was made on the very next day.

The State says that no reasons have been indicated for the second post-mortem examination to be

conducted; nor was the first post-mortem report before the court. The State expresses apprehension that since the body had been received by the family of the deceased and remained with the family for nearly 24 hours before being presented at the R.G. Kar Medical College and Hospital at about 7 pm pursuant to the order impugned, a second autopsy may reveal things which the body may not have suffered at or before the time of its release on October 15, 2020.

So that no party is prejudiced, nothing more is said. It is apparent that the State was represented at extremely short notice. There are certain facts indicated in the writ petition that the State contests. These aspects ought to be looked into before a second post-mortem examination is directed to be conducted. The order impugned will remain stayed.

The matter will appear before the same Single Bench which may be requested to convene on October 19, 2020 for all grounds available to the parties to be urged. Since the body has been taken to the R.G. Kar Medical College and Hospital, the State will ensure that the same is preserved in its present condition till further orders of the Single Bench.

It will be open to the State to use an affidavit to the writ petition. An advance copy of such affidavit should be made over to Advocate for the writ petitioner

by 6 pm on October 18, 2020. Such affidavit may be forwarded by e-mail. Affidavit-in-reply, if any, may be filed before the matter is taken up.

MAT 704 of 2020 and CAN 1 of 2020 therein are disposed of.

(Sanjib Banerjee, J.)

(Arijit Banerjee, J.)

