

Calcutta High Court
In the Circuit Bench at Jalpaiguri
Appellate Jurisdiction

WPA 216 of 2020

Mallika Sarkar
-versus
The State of West Bengal & Ors.

Mr. Debajit Kundu
...For the petitioner

Mr. Subir Kumar Saha
Mr. Ankan Mitra
...For the State

The petitioner is the widow whose husband – a TOTO driver – namely, Sukumar Sarkar, is said to have been murdered on 26th July, 2018. The police have registered a complaint and had arrested the prime accused Raja Das. Criminal proceedings have been initiated. Charge sheet has been filed but charges have not yet been framed. The petitioner refers to the police investigation report and says that Raja Das in his statement made under Section 164 of the Code of Criminal Procedure has admitted to have murdered the petitioner's husband with the aid and assistance of two of his associates. The petitioner's grievance is that the police authorities have neither nabbed the two associates nor have they taken any steps against such associates when on enquiry their names have come. The petitioner complains of police inaction and prays

for necessary interference including having the case investigated through a different agency.

It is admitted position that the police has proceeded with pursuant to the complaint and has arrested Raja Das and has obtained his statement. So far as the two associates named by the said Raja Das is concerned, the petitioner's grievance cannot be entertained at this stage. The petitioner as the de facto complainant has every right to approach the Magistrate and seek for further investigation under the provisions of Section 173(8) of the Code of Criminal Procedure. The facts of the case are not such that the police have not done anything that is complete inaction on their part which requires engagement of another agency for investigation. It is the case of the petitioner that the police have not acted properly which is a subjective matter.

The petitioner will be at liberty to ask for further investigation before the Magistrate concerned even prior to framing of the charges.

The writ petition is disposed of accordingly.

There shall be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties as early as possible.

(Arindam Mukherjee, J.)