

16 26.07.21
rkd Ct.30

WPA (H) 15 of 2021
(IA NO: CAN 1 /2021)

In re: An application under Article 226 of the
Constitution of India;

And

In the matter of: Anil Kumar Saha
...for the petitioner.

Mr. Diptendu Banerjee,
Ms. Sinthia Bala
....for the petitioner.

Mr. Saibal Bapuli,
Mr. Sabir Ahmed
...for the State.

As we have invited the learned advocates for the respective parties to advance their arguments on merits, the earlier order passed by this Court on 13th July, 2021 is recalled and the writ petition, is restored to its original file and number and is taken up for final hearing. The application, being CAN No.1 of 2021 is, accordingly, disposed of.

The present *habeas corpus* petition has been preferred by the petitioner *inter alia* praying for issuance of necessary direction upon the respondents to recover his son, who is missing since 3rd August, 2011.

The learned advocate appearing for the petitioner submits that the petitioner initially lodged a missing diary on 5th August, 2011. On

25th August, 2011 the petitioner received an anonymous letter stating that one Rama Pal, Biswanath Pal, Kadam Pal and Ratan Mondal had kidnapped his son. Such fact was immediately intimated to the police authorities and on the basis of the same, Katwa P.S. Case No.335 of 2011 dated 19th December, 2011 under Sections 363/365/34 of the Indian Penal Code was registered. Upon completion of investigation, a final report no.54/15 dated 6th January, 2015 was filed discharging the accused persons. Aggrieved thereby, the petitioner filed a *naraji* petition before the learned court below and the same was allowed by an order dated 7th January, 2016 with a direction upon the Deputy Director of CID, Burdwan, West Bengal to conduct further investigation. About four years thereafter, the competent authority submitted a final report, being FRT no.15 of 2020 dated 31st July, 2020 and discharged the private respondent nos.11 to 14. Aggrieved thereby, the petitioner again filed a *naraji* petition but the same was ultimately dismissed on 15th January, 2021.

According to the petitioner's learned advocate investigation had been conducted in a slipshod manner and the authorities including the CID authorities had failed to recover the petitioner's son, who is missing for a period of ten years. In view thereof, investigation should now be

conducted by the Central Bureau of Investigation. Representations were also submitted to that effect but in vain.

Mr. Bapuli, learned advocate for the State categorically denies the allegations, as levelled against the police authorities and submits that investigation had been conducted and concluded in a fair and impartial manner and as such no further interference is called for in the present writ petition.

It appears that the *naraji* petition filed by the petitioner against the FRT no.15 of 2020 dated 31st July, 2020 submitted by CID was rejected by the learned court below on 15th January, 2021 observing *inter alia* that all the legal avenues were duly adopted in causing the investigation in a fruitful and effective fashion. The said order was not challenged by the petitioner.

Where investigation had been conducted by the competent authority, an aggrieved person has no right to claim that it be investigated by any particular agency of his choice.

Applying such proposition of law to the facts of the case, we are of the opinion that the exercise of the power of writ in the nature of *habeas corpus* would perhaps not be feasible.

In view thereof, the present petition, being WPA (H) 15 of 2021 is dismissed.

There shall, however, be no order as to costs.

All parties shall act on the server copies of this order duly downloaded from the official website of this Court.

(Subhasis Dasgupta, J.)

(Tapabrata Chakraborty, J.)