

WPA(H) 18 of 2021
(via Video Conference)

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

And

In re: Md. Yunush Mansuri

Vs.

The State of West Bengal and Ors.

Mr. Pawan Kumar Gupta, Advocate

Mr. Santanu Seth, Advocate

.....For the petitioner

Mr. Saibal Bapuli, Ld. APP

Mr. Sabir Ahmed, Advocate

..... For the State

Mr. Gupta, learned advocate appearing for the petitioner submits that the petitioner's minor daughter, namely, Gulapsa Khatun @ Gulafshan Parveen went missing on and from 15th February, 2020. The petitioner immediately lodged a complaint stating, *inter alia*, that his daughter had been kidnapped by the respondent no.4. The said complaint was registered as FIR being FIR No. 150/20 dated 18th February, 2020 under Sections 363/365 of the Indian Penal Code. The police authorities, however, did not conduct proper investigation and did not take appropriate steps to recover his daughter. Aggrieved thereby, the petitioner submitted a further representation to the Commissioner of Police, Howrah Police Commissionerate on 27th July, 2020 but in vain, as such the petitioner was constrained to prefer the present application.

Drawing the attention of this Court the document annexed at page 11 to the petition, Mr. Gupta argues that the petitioner's daughter is a minor and her date of birth as per the Admission Register of the Shishu Shiksha Kendra, where she was studying, is 10th December, 2005. She had been kidnapped by the respondent no. 4 and had illegally detained her. The petitioner is the legal guardian of his minor daughter and is entitled to her custody.

Mr. Ahmed, learned advocate appearing for the State denies the contention of the petitioner and submits that on the basis of the complaint lodged by the petitioner, the police authorities immediately took necessary steps. The respondent no. 4 was arrested on 12th July, 2021. On the basis of the statement of the petitioner's daughter, as recorded under Section 164 of the Code, appropriate application was submitted for the addition of Section 376(2)(n) of Indian Penal Code and Section 6 of the POCSO Act and such application was allowed by the learned court below. Let the report be filed is kept on record.

Mr. Ahmed further submits that it would be explicit from the statement of the petitioner's daughter, as recorded under Section 164 of the Code that she had married the respondent no. 4. She has given birth to a child and presently, she is residing at her matrimonial house.

In the said conspectus and as the petitioner's daughter had been recovered during pendency of the present petition and is presently residing in her matrimonial house, no further order is required to be passed in the present petition and the same is, accordingly, disposed of.

There shall 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.

(Suvra Ghosh, J.)

(Tapabrata Chakraborty, J.)