

11.01.2021

Item no. 33

Dd/aloke

(Through Video Conference)

WPA 3789 of 2015

Anup Bera

Vs.

The State of West Bengal & Ors.

Mr. Rana Mukherjee. Ld APP

Mr. Sabir Ahmed

... .. For the State

We have perused the contents of the writ petition and the report dated 11.01.2021 submitted by Sri Partha Sarathi Halder, Inspector of Police, IC Arambagh P.S. The said report is taken on record.

The petitioner stands arraigned as the accused in a criminal case registered for offences punishable under different counts including Sections 302/498A IPC.

The petitioner's complaint is that his children are in the custody of their maternal grand father. The petitioner's wife died out of burn injury. This has led to a criminal case. It is the admitted position, going by the pleadings in the writ petition, that the two children of the deceased woman are with her father who is the private respondent in this writ petition.

We do not see any room for this Court to exercise jurisdiction under Article 226 of the Constitution of India and issue any order in the nature of a writ of habeas corpus because we cannot find any element of illegal detention by the

maternal grand father of the children who are actually in distress for having lost their mother. We also do not see any ground to entertain the petition of the father of those children for visitation or custodial rights being exercised with the intervention of the writ court.

We are, however, inclined to clarify that these proceedings will not stand in the way of the petitioner seeking requisite relief from appropriate courts in accordance with law in terms of the relevant legal provisions.

For the aforesaid reasons, this writ petition is dismissed without prejudice to what has been stated above.

[Thottathil B. Radhakrishnan, C.J.]

[Arijit Banerjee, J.]