

AD. 19.
February 8, 2021.
MNS.

W. P. A. 4539 of 2020
(**Via video conference**)

Rupak Datta
Vs.
The State of West Bengal and others

Mr. Sounak Bhattacharya,
Mr. Barnamoy Basak,
Mr. S. Chakraborty

... for the petitioner.

Ms. Chama Mukherjee,
Ms. Paromita Pal

...for the respondent-authorities.

Affidavit-of-service filed in Court today be
taken on record.

The writ petitioner complains that his sister
committed suicide due to torture meted out by her
in-laws.

On the complaint of the petitioner, a First
Information Report was lodged and investigation
was undertaken. Subsequently, charge sheet
has also been filed. Upon the petitioner being
taken objection as regards non-inclusion of
certain provisions of the Indian Penal Code, the
same were subsequently clubbed and
investigation undertaken accordingly.

The petitioner seeks to point out certain gross irregularities in respect of a report filed by the Investigating Officer, which apparently indicates that the said Officer expressed a strong belief that the deceased had committed suicide due to extreme torture and harassment by her husband and mother-in-law. The report also mentioned, among the seized articles, one mobile phone, through which the deceased had sent a message to her husband during such alleged torture.

On the other hand, learned counsel for the petitioner points out to information furnished by the Officer-in-Charge of the concerned police station, on such request being made by the petitioner under the Right to Information Act, which indicates that it is not required to send the mobile phone, referred to above, for expert opinion.

It is argued by the petitioner that an expert opinion, upon a forensic examination of the mobile phone, is absolutely relevant for the purpose of the investigation and subsequent trial and such attitude of the respondent-authorities would adversely affect the investigation.

However, when regular criminal trial is about to commence before a competent court on the basis of the charge-sheet filed, it would not be prudent for the writ court to interfere at this stage, directing the criminal court as to what mode should be adopted by such court for the purpose of the trial and/or pre-judging the evidentiary value of a particular piece of evidence.

It is open for the concerned Magistrate, before whom the criminal trial will take place, upon taking into considerations the contentions of all parties, including the complainant/writ petitioner, to arrive at a final conclusion in that regard. However, there is no scope for interdiction at this stage by the writ court.

Accordingly, W. P. A. 4539 of 2020 is disposed of by granting the petitioner liberty to ventilate the grievances taken in the writ petition before the concerned Magistrate, when the trial commences.

There will be no order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)