

22.07.2021
Item No.28
Court No.30
Avijit Mitra

WPA (H) 23 of 2021

(THROUGH VIDEO CONFERENCE)

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

And

In re: Sukumar Gantait

- Versus-

State of West Bengal & Ors

Mr. Biswabrata Basu Mallick,

Mr. Pradip Paul

For the petitioner

Mr. Rana Mukherjee,

Mr. Sabir Ahmed,

For the State

Mr. Uttam Bhattacharya

For the Private Respondent no.6

The present *habeas corpus* petition has been preferred by the petitioner alleging *inter alia* that his daughter, namely, Sucharita Gantait, a third year Zoology (Honours) student of Midnapur Gope College, is missing for the last eight months. She used to stay at a mess of Paban Kumar Jana at Rangamati, Midnapur as a paying guest and used to take private tuition. On 9th November, 2020, the petitioner left the mess at about 5.00 p.m. but did not return thereafter. Upon coming to learn such fact, the petitioner, who resides about 60 kms away from Midnapur town, lodged a missing diary on 10th November, 2020 but no steps were taken. The petitioner thereafter lodged a complaint on 21st March, 2021 stating *inter alia* that the respondent no.7 had kidnapped the petitioner's daughter and had illegally detained her. The said complaint was registered as All Women Police Station Case No.17 of 2021

dated 21st March, 2021 under Section 365 of the Indian Penal Code. However, the petitioner's daughter had not been recovered till date.

Mr. Basu Mallick, learned advocate appearing for the petitioner submits that the police authorities have not discharged their statutory obligations and have not taken appropriate steps to recover the petitioner's daughter and as such, necessary orders need to be issued for production of the girl, who is missing for the last eight months.

Mr. Bhattacharya, learned advocate appearing for the respondent no.6 denies the contention of the petitioner and submits that his son is a married person and is having his wife and daughter. He is the only earning member of the family. Surprisingly, he is also missing since the month of November, 2021 and a missing diary to that effect was lodged on 11th November, 2020.

Mr. Mukherjee, learned advocate appearing for the State denies the allegations as levelled against the police authorities and submits that the petitioner's complaint was immediately registered and thereafter the investigating officer conducted raid several times. Lastly on 13th July, 2021, after getting a source information, a raid was conducted at Debra to recover the petitioner's daughter but in vain. However, investigation is still in progress. Let the report, as produced, be kept on record.

In reply, Mr. Basu Mallick submits that his daughter has no relationship with respondent no.7 and she had been illegally detained by the said respondent.

Heard learned advocates appearing for the respective parties and considered the materials on record.

A writ in the nature of Habeas Corpus is a prerogative writ by virtue of which the causes and validity of detention of a person are investigated by summary procedure. The allegation in the complaint that the petitioner's daughter had been kidnapped is being investigated by the police authorities. This Court in exercise of its jurisdiction, however, cannot usurp ordinary administration of criminal justice. It appears that the petitioner's daughter is major and is a college student. The respondent no.7 is a married person and is having his wife and daughter.

We are afraid that the exercise of the power of writ in the nature of *habeas corpus* would perhaps not be feasible in the fact situation of the instant case. The petitioner cannot ask the writ court to interfere in the investigation of a case concerning commission of cognizable offences by the private respondents. Where there is a remedy available under the ordinary law, extraordinary writ in the nature of *habeas corpus* would not be entertainable. In view thereof, no interference is called for in the present petition.

Nothing herein shall, however, prevent the petitioner from initiating proceedings before any other court or forum seeking relief according to law.

With such observations, the present petition is disposed of.

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.

(Suvra Ghosh, J.)

(Tapabrata Chakraborty, J.)