

11.08.21

Court No.30
rpan /28

W.P.A. (H) No. 30 of 2021

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

And

In re: **Firoza Khan Dey**

- Versus -

The State of West Bengal & Ors.

Mr. Mukteswar Maity,
Ms. Kiran Kumari Mahato
... for the Petitioner.

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

The writ petition is taken up for consideration
subsequent to the order dated July 16, 2021.

The complaint of the petitioner is that her husband
is missing. The police did not recover her husband
despite the police complaint.

Report in the form of instructions to the learned
advocate for the State filed in Court be taken on record.

It appears from the report that the police registered
a case, being Bhatar Police Station Case no.06/21 dated
January 5, 2021 under Sections 417/498A/34 of the
Indian Penal Code, 1860 against the respondent nos.5,
6, 7 and 8. The FIR named accused surrendered on
January 15, 2021 before the jurisdictional court.

The petitioner lodged a complaint with regard to
her missing husband. The police recovered the missing
husband of the petitioner on June 25, 2021 and recorded
his statement under Section 164 of the Code of Criminal
Procedure (in short, the said Code). A copy of the

statement under Section 164 of the said Code of the husband forms the part of the report submitted in Court.

On perusal of the statement recorded under Section 164 of the said Code, we are of the view that as an adult, the husband of the petitioner exercised his choice. He does not want to stay with the petitioner. As, a Writ Court we need not interfere with the choice made by the husband of the petitioner.

The private parties are at liberty to avail of their remedies before the appropriate forum in accordance with law.

Accordingly, WPA (H) 30 of 2021 is disposed of.

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

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

(Subhasis Dasgupta, J.)

(Debangsu Basak, J.)