

08.09.2021
Item No.02
Court No.30
Disposed of
Krishnendu

**W.P.A. No. 30301 of 2017
(Via Video Conference)**

In re: Parbati Mondal
- Versus -
The State of West Bengal & Ors.

Mr. Tapan Dutta Gupta
Mr. Partha Sarathi Ghosh
Mr. Parvej Anam
For the Petitioner
Mr. Amitesh Banerjee, Id. Sr. Govt. Adv.
Mr. Rana Mukherjee, Id. A.P.P.
Md. Sabir Ahmed
Mr. Suddhadev Adak
For the State
Mr. Debasish Kundu
For the Respondent No. 5

The present *habeas corpus* petition has been preferred primarily praying for the following relief:

- (a) A writ in the nature of Habeas Corpus directing the respondent authorities to produce the grandson of the petitioner before this Hon'ble Court and also direct to show/disclose the authority/legal justification by which the respondent authorities have not taken any action and/or step to trace out the whereabouts of the grandson of the petitioner.

Mr. Dutta Gupta, learned advocate appearing for the petitioner submits that the petitioner's grandson, who was aged three years six months, and the petitioner's daughter went missing from the residence of the respondent no.

5 on 17th July, 2017. The said fact was intimated to the police authorities and on 22nd July, 2017 the deadbody of the petitioner's daughter was recovered from the Ganges. The marriage between the petitioner's daughter and the respondent no. 5 was solemnized in the month of June, 2013 and a male child was born on 6th April, 2014. The petitioner's daughter was tortured and she was driven out from her matrimonial home along with her male child. A complaint to that effect was lodged before the Kalyani Police Station on 31st July, 2017 but no steps were taken. As such, the petitioner was constrained to prefer an application under section 156(3) of the Code of Criminal Procedure and on the basis of an order passed by the learned Magistrate, the petitioner's complaint was treated as F.I.R. and Kotwali Police Station Case No. 395 of 2017 dated 03.09.2017 under sections 302/201/34 of the Indian Penal Code was registered. There was, however, no endeavour on the part of the police authorities to conduct proper investigation. Such fact was brought notice to the Superintendent of Police, Nadia by a representation on 27th July, 2017. However, the authorities could not recover the petitioner's minor grandchild. Aggrieved

thereby, the petitioner was constrained to prefer the present writ petition.

Mr. Dutta Gupta argues that the police authorities have miserably failed to discharge their statutory obligation. It is the duty and responsibility of the police authorities to recover the minor grandchild of the petitioner. In view of such infirmities, immediate direction needs to be issued for production of the minor grandchild of the petitioner.

Mr. Banerjee, learned senior advocate appearing for the State respondents, submits that there had been a sincere endeavour on the part of the police authorities to recover the petitioner's minor grandson, as would be explicit from the reports filed by the police authorities before this Court.

He further submits that in the facts and circumstances of the case, it cannot be urged that the petitioner's minor grandson had been illegally detained by any person. The complaint, which was lodged by the petitioner, was duly investigated and the respondent no. 5 was arrested. However, the said respondent no. 5 ultimately obtained bail. Upon conclusion of investigation, charge sheet has also been submitted in the case and as such, it cannot be

alleged that there had been any inaction on the part of the police authorities.

We have heard the learned advocates appearing for the respective parties and considered the materials on record.

A perusal of the reports filed by the respondent no. 3 on 26th July, 2021 and 22nd August, 2021 reveal that immediately upon receiving the intimation that the petitioner's grandson was missing, all steps were taken by the police authorities, in accordance with law, to recover the grandson.

In the last report dated 22nd August, 2021, it has, *inter alia*, been stated that the Inspector-in-Charge, Kalyani Police Station, made announcement in river side villages, such as Charjajira, Charmadhusudanpour, Charjadubati, Birpara, Charkachrapara, Charnandanbati, including Kalyani and Gayeshpur town area but no credible information was received. Such fact was diarised on 17th August, 2021. The concerned Inspector-in-Charge also tried to contact the petitioner through her elder daughter over telephone. Such fact was also diarised on 19th August, 2021. The concerned Inspector-in-Charge has also taken the assistance of the Special Operation Group of Ranaghat Police District to

track the location of the cell phone used by the deceased.

It further appears that on the basis of the complaint lodged by the petitioner, Kalyani Police Station Case No. 434 of 2017 dated 22nd November, 2017 was initiated and upon completion of investigation, charge sheet was also submitted. In connection with the said case, the respondent no. 5 herein was also arrested. However, he obtained bail on 11th January, 2018 and another F.I.R. named accused person, namely, Jayanta Halder also obtained anticipatory bail.

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 a summary procedure. A *habeas corpus* petition cannot be entertained for tracking down a missing person, more so when there had been an endeavour on the part of the police authorities to recover the missing person. This Court, in exercise of its jurisdiction, cannot also usurp ordinary administration of criminal justice.

In the facts and circumstances of the case, in our opinion, it cannot be urged that there had been any illegal detention. 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 present case and the relief, as prayed for in the present writ petition, is, accordingly, refused.

Nothing herein shall, however, prevent the petitioner from initiating proceedings before any other forum seeking relief, in accordance with law.

With the aforesaid observations, the present writ 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.

(Rabindranath Samanta, J.) (Tapabrata Chakraborty, J.)