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2021

**In the High Court at Calcutta
Constitutional Writ Jurisdiction**

W.P.A. No. 10636 of 2020

**Shib Sankar Ghosh
Versus
The State of West Bengal and others**

Mr. Uday Sankar Chattopadhyay,
Mr. Suman Sankar Chatterjee,
Mr. Pronay Basak.
...for the petitioner.

Mr. Swapan Kr. Datta,
Mr. Tapas Kr. Dey.
...for the State.

Learned counsel for the petitioner vociferously argues that the petitioner's daughter was murdered. Subsequently, the police authorities have not been taken appropriate steps for investigation in the matter. It is alleged by the writ petitioner that his daughter had an affair during her pre-existing marriage and the body of the deceased was found from the premises of the local police station. It is submitted that the police authorities are not taking adequate steps in the matter. In particular, the petitioner's statement under Section 161 of the Criminal Procedure Code has not yet been taken.

Learned counsel for the respondent-authorities files a report in Court today, which indicates that investigation is going on in the matter and, from the post-mortem report, it appears that the death was due to the effect of hanging, ante mortem in nature, which could have been either homicidal or suicidal. It has also been indicated that the statement of witnesses have been recorded under Sections 161 and 164 of the Code of Criminal Procedure and the investigation is now in progress. However, there is no specific indication that the petitioner's statement has yet been taken by the police.

Learned counsel for the petitioner relies on *State of West Bengal and others –Vs- Committee for Protection of Democratic Rights, West Bengal and others*, reported at (2010) 3 SCC 571, in support of the proposition that, under Article 226 of the Constitution, the Writ Court has power to transfer investigation to some other agency than the police, if justified by the circumstances.

However, it is still premature to come to the conclusion that the police is not investigating impartially into the matter, despite the allegation of the petitioner that the body of the deceased was found near the precincts of the police station.

In any event, the petitioner shall have the liberty to point out the discrepancies, if any, in the

charge-sheet upon filing of the same on completion of the investigation.

Accordingly, WPA 10636 of 2020 is disposed of by directing the respondent no.5 to conclude the investigation as expeditiously as possible, in the process taking a statement from the petitioner as the complainant and/or witness, in accordance with the appropriate provisions of law, if not already taken. As indicated above, the petitioner shall also be at liberty to approach the appropriate magistrate in the event the petitioner has any grievance with regard to the charge-sheet, if filed.

There will be no order as to costs.

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

(Sabyasachi Bhattacharyya, J.)