

05.01.2021

Item no. 02

Dd/aloke

Through Video Conference

WPA (H) 3 of 2020

Mr. Basudeb Sardar

Vs.

The State of West Bengal & Ors.

Mr. Sankar Prashad Dalapati

Mr. Kalyan Chatterjee

Mr. Subrata Sarkar

Mr. Sourav Mondal

... .. For the Petitioner

Mr. Rana Mukherjee, Id. APP

Mr. Bipin Ghosh

... ..For the State

We have heard learned counsel for the petitioner and the State in this application filed seeking issuance of a writ in the nature of habeas corpus.

The writ petition is filed on the allegation that a practicing advocate went missing after he left Court on a particular day. It is also the allegation made to the police by the victim's relatives that the victim is possibly under the custody of some persons, obviously indicating that this could be a case of kidnapping. It is also suggested in the complaint that there is a demand for ransom and, hence, this could be a case of kidnapping for ransom or even a case where the victim is either continuing in unlawful detention of such persons or has been dealt with otherwise.

When this matter had come up for adjudication before this Court on 29.12.2020, it was ordered by the Division Bench that a report be filed. This order was issued after recording the submissions made on behalf of the State that a Special Investigation Team has been appointed and the matter has also been taken up with the CID. The report filed today and presented before us by the learned counsel appearing for the State says that the CID is also involved in the investigation and the matter is being investigated by a Special Investigation Team headed by the Additional Superintendent of Police (Head Quarters), Baruipur. The said report is taken on record.

In the light of the aforesaid facts and circumstances of the case, all that emanates is that the State machinery shall ensure that due, fair and complete investigation is carried out on the basis of the FIR that has been registered and on the basis of such materials as may come out in the course of investigation. This is the due process that has to be carried out and there is no requirement of any supervisory role being activated at the end of the High Court in exercise of the power under Article 226 of the Constitution of India.

The jurisdictional Magistrate would obviously have sufficient jurisdiction in cases of any allegation as to the course of investigation, provided such allegation appeals to the learned Magistrate at that end.

Under such circumstances, we deem it appropriate to close this writ petition directing that the investigation already commenced shall be carried to its logical conclusion and requisite steps

shall be taken not merely to trace out the missing person but also to ensure that if any person is found responsible for the missing of the person concerned, appropriate action shall follow in accordance with law.

With the aforesaid directions, the writ petition is disposed of.

[Thottathil B. Radhakrishnan, C.J]

[Rajesh Bindal, J.]