

**Calcutta High Court
In the Circuit Bench at Jalpaiguri**

W.P.A. (H) 1 of 2021

**Lipi Mahanta
Vs.
The State of West Bengal & Ors.**

Mr. Anirban Banerjee
.....for the petitioner

Mr. Bikramaditya Ghosh,
Ms. Bedashruti Bose
...for the State

Learned counsel for the petitioner submits that the minor daughter of the petitioner has been kidnapped by her brother-in-law in connection with a matrimonial dispute going on between the petitioner and her husband.

It is submitted that the minor daughter is now with her father (husband of the petitioner) and the petitioner does not have access to her.

Learned counsel appearing for the State submits that a complaint has already been lodged by the petitioner under the relevant provisions of the Indian Penal Code. He further submits that the statement of the minor daughter, recorded under Section 164 of the Code of Criminal Procedure, indicates that the daughter wants to live with her father.

Be that as it may, considering the age of the minor, that is, eleven years, the daughter is old enough to have an intelligent preference. As such, since the matter pertains to a dispute regarding custody, it will not be prudent for this Court to interfere in the matter.

Accordingly, W.P.A. (H) 1 of 2021 is disposed of with liberty to the petitioner to approach the appropriate civil court for custody of her daughter.

There will be no order as to costs.

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

(Sabyasachi Bhattacharyya, J.)

(Kausik Chanda, J.)