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ORDER SHEET

WPO 224 of 2021  
IN THE HIGH COURT AT CALCUTTA  
CONSTITUTIONAL WRIT JURISDICTION  
ORIGINAL SIDE

RAGAIBUL HAQUE  
VS  
STATE OF WEST BENGAL AND ORS.

BEFORE:  
The Hon'ble JUSTICE SHIVAKANT PRASAD  
Date: 29th June, 2021.

(Via Video Conference)

Ms. Amrin Khatoon, Adv.  
...for the petitioner

Mr. Manoj Malhotra,  
Mr. Paritosh Sinha, Adv.  
...for the State

The Court: Affidavit of service filed in Court be taken on record.

The writ petitioner submits that the respondent nos.1 to 3 are the State agencies who are shirking from their responsibilities and duties in not nabbing the respondent no. 4, accused who had subjected his son to torture and he is the person responsible for the unnatural death of his son.

It is pointed out that on 18<sup>th</sup> March, 2021 at about 10.30 p.m. the petitioner when returned home knocked at the door of the residence but none responded from inside. Thereafter the petitioner with the help of the others broke opened the main door and found the dead body of his 19 years old son Mohammad Rashed Haque, hanging from the ceiling fan.

An FIR was lodged by the petitioner with the Park Street Police Station against the private respondent no.4 and a specific case was registered being Park Street

Police Station Case No.46 of 2021, dated 05.04.2021 under section 306/34 of the Indian Penal Code. Learned counsel for the petitioner submits that more than 65 days have passed since the filing of the FIR but steps have not been taken by the Police concerned for arresting the private respondent no.4, who is responsible for the commission of offence. It is further pointed out that his custodial interrogation is needed for revealing the truth regarding the mysterious death of the petitioner's son.

The respondent no.4 had preferred an application being CMC No. 194 of 2021 under Section 438 of the Criminal Procedure Code for admitting him on anticipatory bail as he was apprehending arrest in connection with this case but the learned Judge, City Sessions Court by an order dated 09.4.2021 rejected his prayer for release on anticipatory bail and the respondent no. 4 is roaming in the locality freely but till date no action for the arrest has been made by the Police. It is further alleged that the respondent no.4 is associated with many criminals and also with political parties having influence on the Police and for that he is escaping arrest in connection with this case.

Learned counsel for the petitioner also submits that the respondent no.4 has not yet even surrendered before the Chief Metropolitan Magistrate, Bankshall Court, Calcutta after rejection of anticipatory bail. It is specific contention of the petitioner that there is high possibility of the petitioner's son being murdered which cannot be ruled out because on 3.2.2020, the petitioner's son was beaten up mercilessly by the said respondent no.4 and his son Md. Yasir, causing grievous injury on the person of his son. My attention is invited to the medical injury report placed at page 25 pointing out that though General Diary was lodged for the physical assault on the son of the petitioner but petitioner is not in the knowledge of any case having been registered on the basis of the said General Diary.

The petitioner has sought for certain directions upon the respondent nos.1 to 3, particularly, respondent no.2, the Deputy Commissioner of Police, Divisional Headquarter, South Division, Kolkata and the respondent no. 3 the Officer-in-Charge, Park Street Police Station, directing them to arrest the private respondent no.4 and two other persons associated with the crime perpetrated on the deceased son of the petitioner.

On behalf of the State respondents, a report of Jayanta Mukherjee, Officer-in-Charge, Park Street Police Station, dated 16.06.2021 is pressed in service by Manoj Malhotra, learned Advocate for the respondent State to submit that steps have been taken by the Police authority and there is no Police inaction as alleged by the petitioner. The report reflects that the writ petitioner had submitted that his deceased son was beaten up mercilessly by the private respondent no.4 and his son Yasir on 3.2.2020 and the petitioner's son was constantly subjected to mental torture by private respondent no.4 immediately before his demise because the private respondent no.4 disapproved his daughter's marriage with the deceased, who were into love affair.

It is reported that on 18.3.2021 Park Street Police Station received an information about the hanging with the ligature from the ceiling fan of one Mohammad Rashed Haque, aged 19 years, being the son of the writ petitioner. Accordingly, an unnatural death case vide Park Street UD Case No.06 of 2021 was started in this regard and the body was removed to CNMC Hospital by Police after fulfilling all legal formalities.

After 20 days of incident, the complainant had submitted a letter of complaint on 5.4.2021 and based on the said letter, a specific case was instantly started by the Park Street Police Station on 5.4.2021 vide case No.46 under section 306/34 IPC wherein private respondent no.4 is the accused person.

Investigation is in progress and during investigation postmortem examination was conducted on the body of the deceased to ascertain the actual cause of death. The report of postmortem examination enunciates that "Death was due to the effect of mechanical asphyxia due to compression of neck by means of a ligature in a case of hanging, Ante mortem in nature". The place of occurrence was also examined by Forensic Experts to ascertain foul play, if any, and the Expert report is still awaited.

Thus, it is submitted on behalf of the State respondent that all sincere and best efforts were made by the Police officials of the Park Street Police Station for apprehending the accused being the respondent no.4 herein, but nothing fruitful could be yielded so far. The accused is still absconding and the Police has engaged sources for inputs about the whereabouts of the accused person. The report also reflects that the prayer of the respondent no.4 accused was rejected by the Learned Chief Judge, City Sessions Court, Calcutta on vehement objection by the Investigating agency which resulted in rejection of the bail application vide Order no.05, dated 9.6.2021. The writ petitioner frequently visited the Police Station after the case was indexed and he has been given all possible cooperation by the Investigation agency. As such, Mr. Malhotra learned counsel for the State respondent nos.2 and 3 submits that false allegation has been made against the Police administration alleging Police inaction.

In view of the report submitted on behalf of the State respondent and having heard Mr. Malhotra, learned counsel for the State, this Court does not find any Police inaction as apprehended by the petitioner. Now it is evident from the report of the respondent no.3, that the death was suicidal in nature. It may so happen that the constant torture meted out to the deceased might have the deceased son of the petitioner to commit suicide but such fact can only be decided on the basis of evidence to be adduced at the trial by the prosecution.

Hence, this application is decided and disposed of with the direction upon the respondent nos.2 and 3 to see that all possible steps are taken to nab the respondent no.4 accused person and to conclude the investigation by submission of charge sheet before the Chief Metropolitan Magistrate within the statutory period.

Accordingly, the writ petition being WPO No. 224 of 2021 is disposed of.

The report dated 16.6.2021 of the Officer-in-Charge, Park Street Police Station, be kept on the record.

Parties shall act on a website copy of this order.

(SHIVAKANT PRASAD, J.)

TR/SN