

S/L 3
03.08.2022
Court. No. 19
GB

WPA 535 of 2022

Sunil Kumar Kurmi & Anr.
VS
The State of West Bengal & Ors.

Mr. Aniruddha Bhattacharya.

...for the Petitioners.

*Mr. Subhabrata Datta,
Mr. Sanatan Panja.*

...for the State.

The report of the Deputy Commissioner of Police (Special) Detective Department, Kolkata is taken on record.

It appears that the father of the petitioner No. 1 went missing on March 30, 1997 from the residence at 1/H/48, Sarba Khan Road, Kolkata-700037, Police Station-Chitpur. A missing G.D. Entry was made vide G.D. Entry No.3245 dated March 30, 1997. On December 18, 2018, wife of the deceased prayed before the Joint Commissioner of Police (Crime), Lalbazar, Kolkata for issuance of a Final Non-Traceability Police Enquiry Report. Upon receipt of the said application, a detailed enquiry was made. It was found that the missing person had been recovered in a deceased condition by the police. The petitioners identified the photograph of the deceased. The matter was dairised vide Bowbazar Police Station G.D. Entry No.3169 dated September 28, 1998. Subsequently, on June 10, 2019 the Officer-in-Charge, Bowbazar Police Station was intimated about the matching of the missing person with the unknown dead body in respect of which a postmortem had been conducted by the Professor of Forensic and State Medicine, Kolkata Medical College and

Hospital and In-Charge of Kolkata Police Morgue on September 29, 1998. The Officer-in-Charge, Bowbazar Police Station sent separate requisitions on June 26, 2019 and July 30, 2019, addressed to the Professor of Forensic and State Medicine, Kolkata Medical College and Hospital and In-Charge of Kolkata Police Morgue, to obtain the postmortem report of the deceased. The said postmortem report could not be traced. Later, the Homicide Squad, Detective Department Kolkata, tried to collect the postmortem report from the authority once again, but such efforts were in vain. The Professor of Forensic and State Medicine, Kolkata Medical College and Hospital and In-Charge of Kolkata Police Morgue replied to the authority concerned that they searched extensively for the said report, but the record was missing. The postmortem was conducted on September 29, 1998 vide PM No.1002 of 1998. The same was conducted by Dr. Dipankar Guha Roy, who has retired from service. It appears that renovation work had been carried out in the said record department of the Kolkata Police Morgue and the papers may have been misplaced. The reports of the In-Charge, Kolkata Police Morgue have been placed before this Court.

The petitioners have two-fold prayers :-

- a) That certain details have to be provided to the petitioners, so that a death certificate can be obtained.
- b) The petitioners are entitled to know the cause of the death of their closest family member.

The writ petition is disposed of with the following directions:-

- 1) The Deputy Commissioner of Police (Special) Detective Department, Kolkata shall take adequate steps to ensure that the Kolkata Municipal Corporation issues the necessary death certificate to the petitioners upon compliance of requisite formalities. This order is being passed in view of the fact that, the petitioners are unaware of the details of the death. They do not have any document. The body was recovered by the police, postmortem was conducted under the supervision of the police and thereafter cremated by the police as an unclaimed body.
- 2) Effort shall be made to contact Dr. Dipankar Guha Roy, who had conducted the autopsy on September 29, 1998 vide PM No.1002 of 1998, so that, some leading information may be derived. Moreover, the postmortem report cannot go missing from any department. Search must continue for the same and efforts shall be made to find out whether the copies of the postmortem report had been sent to any other department or authority to enable reconstruction of the report. The police authorities shall ensure that responsibility is fixed. A vital document of such nature, cannot go missing from the records.

A copy of the report filed by the Deputy Commissioner of Police (Special) Detective Department, Kolkata be handed over to the learned advocate for the petitioners.

It is directed that efforts shall be made to issue the death certificate within a period of four weeks from date. The search for the postmortem report and the efforts to trace out the report from any other department or authority shall start immediately and a positive result is expected within four months.

Accordingly, the writ petition is disposed of.

However, there will be no order as to costs.

All the parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)