

S/L 6
20.07.2022
Court. No. 19
GB

WPA 3269 of 2022

Sadikul Alam
VS
The State of West Bengal & Ors.

*Md. Nauroz Rahber,
Ms. Anjana Meheub,
Mohammed Jawwad.*

...for the Petitioner.

*Mr. Amitesh Banerjee,
Mr. Suddhadev Adak.*

...for the State.

*Mr. Pankaj Halder,
Mr. Sanatan Panja,
Mr. Tapas Manna,
Ms. Chaitali Sarkar.*

...for the Respondent Nos.8 & 14.

The petitioner prays that the investigation of Chanchal P.S. Case No.879 of 2021 dated October 8, 2021 be transferred to a specialised and independent investigating agency. It is the contention of the petitioner that the respondent nos.8 to 14 were civic volunteers and village police, who had beaten the petitioner's father to death.

On the earlier occasion, the Court had directed the Superintendent of Police, Malda to file a report upon making an enquiry with regard to the allegations of the petitioner. Today, a report has been filed before this Court by the Superintendent of Police, Malda. According to the preliminary enquiry made by the Superintendent of Police, it appears that the petitioner's father was standing in a long queue in front of a vaccination camp in the premises of Dhangara Bishnpur High Madrasah. It is contended that the petitioner's father got agitated and started disturbing the process of vaccination by kicking the door of the vaccination

room along with some other persons, who were standing in the queue. Other allegation is that the petitioner's father had assaulted another civic volunteer, Saidur Rahaman with fists and blows, which led to bleeding injuries. The petitioner's late father and his men had tried to forcefully enter into the vaccination room. The other civic volunteers had to rescue Saidur Rahaman from being further assaulted. Thereafter, the late father of the petitioner started feeling uneasy. He left the camp and he collapsed at a distance of 100 metres from the said camp. His companions took him to the hospital, where he was declared dead.

On the basis of the complaint lodged by the petitioner, Chanchal P.S. Case No.879 of 2021 dated October 8, 2021 under Sections 304/34 of the Indian Penal Code was registered against Majibur Rahaman and six others. It also appears that another case was registered against the petitioner's late father on the complaint of the civic volunteer, Muhammad Asik Ikbali on October 8, 2021 under Sections 186/353/333/307/34 of the Indian Penal Code.

In the course of the investigation, an inquest was made of the body of the deceased. No external injury could be detected. The postmortem report of the deceased was also collected. The autopsy surgeon opined that the death was due to the effect of the diseased condition of the heart. No bodily injury had been detected instead, an enlargement of the heart (weighing 541 grams) containing liquid and clotted blood in the chamber, had been found. In short, the autopsy

surgeon found evidence of complete blockade of the anterior descending branch of the left coronary artery.

Statements of 21 witnesses including the complainant, that is Sadikul Alam and four staff members of the health department, who were present at the vaccination camp, were recorded. All the witnesses unequivocally deposed that the petitioner's father was neither assaulted nor manhandled by anybody. They stated that he had collapsed at a distance of 100 metres from the camp and he was sweating profusely.

The Superintendent of Police has filed the report after making an enquiry into the allegations levelled by the petitioner. These observations shall not prejudice the investigation, which is going on in respect of Chanchal P.S. Case No.879 of 2021 dated October 8, 2021 under Sections 304/34 of the Indian Penal Code.

The petitioner apprehends that the investigation shall not be done by the Chanchal Police Station freely, fairly and impartially. According to the petitioner, even after the writ petition had been filed, the said village police and civic volunteers had been trying to influence the witnesses and had intimidated the witnesses and the petitioner. He prays that some other police station should be assigned the investigation.

It is submitted by the learned advocate for accused persons that the writ petition is not maintainable. He submits that the petitioner has an alternative remedy before the learned jurisdictional Magistrate. He may pray for proper investigation before the said court. Reliance has been

placed on a decision of the Hon'ble Supreme Court in the matter of Sakiri Vasu versus State of U.P. and Others.

Under such circumstances, the writ petition is disposed of with a direction upon the Superintendent of Police, Malda to form a special investigating team consisting of independent police officials of the concerned police station, who will conduct an impartial investigation into the allegation made in the FIR. The investigation shall be completed expeditiously and independently.

This order shall not have any impact on any other proceedings or in the pending investigation. The Superintendent of Police, Malda shall monitor the investigation and ensure that the grievances of the petitioner is addressed. Moreover, the apprehension that the investigation will be biased as the accused persons are civic volunteers and village police under the control of the Chanchal Police Station, should be eliminated completely by the Superintendent of Police.

As no affidavits have been called for, the allegation against the respondent nos.8 to 14 are deemed to be denied. The culpability of the said respondents, have not been gone into in this writ petition.

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.)