

13.7.2022
Court No. 19
Item no.375
sn

WPA No. 4262 of 2022

Sabia Begum
Vs.
The State of West Bengal & ors.

Mr. Md. Younush Mondalfor the petitioner

Mr. Ranjit Rajak ..for the State

The petitioner alleges that the police authorities have wrongly registered the case vide Jangipara Police Station Case No. 22 of 2022 under sections 304A/427/504/506 and 34 of the Indian Penal Code.

According to the petitioner, the complaint filed before the police authorities, would clearly reveal that the Sections 302 and 304 of the Indian Penal Code, should have been incorporated.

The police authorities have filed a report, from which it appears that the medical opinion of the doctor, who conducted the post-mortem, was inconclusive. The doctor opined that the exact cause of death could not be ascertained and the final opinion would be given after receipt of the Viscera analysis reports and circumstantial evidences. The possibility of Myocardial infarction was detected by the doctor. It appears that the Viscera of the

deceased has been sent to FSL, Kolkata for opinion and the report is yet to arrive. It also appears that the F.I.R. named persons have been issued notices under Section 41A of the Code of Criminal Procedure and the accused persons had met the investigating officer. The accused persons surrendered before the learned Additional Chief Judicial Magistrate, Serampore Court, Hooghly. They were released on bail. The investigation is still going on.

Heard the parties. The police authorities shall make a sincere effort to ensure that the Viscera analysis report is prepared expeditiously. The investigation shall be concluded upon considering the Viscera report and other evidences leading to the death of the victim. The opinion of the doctor shall also be sought for on the basis of the Viscera analysis report.

The allegation of the petitioner is that the husband of the petitioner suffered a massive heart attack. Such attack was the result of continuous threats of the FIR named accused persons. It is alleged that on the fateful day, the accused persons chased the victim with weapons and the victim ran to save his life. The fear and the mental trauma, led to the heart attack and consequent death of the victim.

Although, the petitioner prays for insertion of Section 302 of the Code of Criminal Procedure in the First Information Report, at this stage, in view of the inconclusive decision in the post-mortem report and in the absence of the Viscera analysis report, it would not be proper for the Court to direct the investigating agency to incorporate other sections. The investigating agency is always at liberty to do so, if the investigation demands inclusion of other sections.

The Superintendent of Police, Hooghly Rural Police Commissionerate shall oversee and supervise the investigation and consider the contentions of the petitioner, which has been urged before this Court.

As this is a case where allegations are against the local inhabitants who have allegedly been harassing the petitioner, the Officer-in-Charge, Jangipara Police Station, shall ensure safety of the petitioner.

This writ petition is disposed of.

There will be, however, 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.)