

29.06.2022
Court No. 19
Item no. 149
CP

WPA No. 6788 of 2016

Sri Arindam Gupta

Vs.

The Commissioner of Police, Howrah
Commissionerate & ors.

Mr. Mukul Lahiri, Sr. Advocate

Mr. Prasenjit Burman

Ms. Puja Beriwal

Mr. Chitrak Biswas

....for the petitioner.

Mr. Subhabrata Datta

Mr. Benazir Ahmed

....for the State.

The court appreciates the agony, His father was murdered.

The post-mortem report indicates that the victim had sustained serious injury. The medical officer has categorically opined that the death was due to antimortem homicidal injuries. Details of the injury have been recorded in the post-mortem report. The father of the petitioner was found lying in a pool of blood, at his residence. The police authorities also found the victim lying in a prone position in a pool of blood. Jagacha PS Case No. 15/16 dated January 20 2016 under Section 302 of the Indian Penal Code, was started on the basis of the written complaint filed by one of the sons of the victim. The investigation was completed. Statements were

recorded by the Criminal Investigation Department (hereinafter referred to as the 'CID'), West Bengal under Section 161 of the Code of Criminal Procedure. The place of occurrence was examined by the investigating officer of the Homicide Section of the CID, West Bengal. Experts from the State Forensic Laboratory were also involved in such examination of the place of occurrence. Statements of number of witnesses under Section 161 of the Cr.P.C. were recorded. Call detail records of different phone numbers were collected and carefully examined. Number of bank statements were collected. It is submitted that the investigation was done in a meticulous manner.

However, despite the best efforts of the investigating agency, the agency could not come to a prima facie conclusion with regard to the identity of the accused.

After some time, a final report was submitted as 'True' in 2020, vide Jagacha P.S. FRT No. 166/2020 dated September 28, 2020, under Section 302 of the Indian Penal Code, with a prayer to reopen the case in future.

Under such circumstances, the petitioner is at liberty to approach the jurisdictional Magistrate by filing proper application.

The CID, West Bengal shall continue to probe deeper with regard to the circumstances of the death which was investigated, and if further clues are available, the CID, West Bengal shall reopen the case on its own motion without further reference to any other court.

The Additional Director General, CID shall personally look into the issue as the factum of murder of the victim is not denied by the CID. The problem which the CID has faced, as submitted by Mr. Datta, learned advocate, is with regard to the identification of the accused. It is submitted that by the time the CID was handed over the investigation, a lot of crucial time had been lost and the leads were not sufficient.

Apart from the remedy which the petitioner might avail of before the learned jurisdictional Magistrate, the Additional Director General, CID, West Bengal is directed by this court to personally look into the matter.

The writ petition is disposed of.

There shall be no order as to costs.

Parties are to act on the server copy of this order.

(Shampa Sarkar, J.)