

21.06.2022
Court No. 19
Item no.78
CP

W.P.A. No. 11964 of 2021

Monohar Sekh
Vs.
The State of West Bengal & Ors.

Mr. Mrinal Das
Mr. Raja Adhikary
....for the petitioner.

Mr. Amitesh Banerjee
Mr. Tarak Karan
....for the State.

The petitioner is the brother of the deceased.
The allegation of the petitioner is that the complaint which was filed on May 21, 2021 disclosing commission of an offence of murder of his sister, was not looked into.

On an earlier occasion, a coordinate bench had directed that the First Information Report which was registered on the basis of the complaint lodged by the husband of the deceased on May 20, 2021 vide Nanoor PS Case No. 88/2021 dated May 20, 2021 under Section 302 of the Indian Penal Code shall be investigated into along with the complaint of the petitioner. The court directed that the complaint of the petitioner shall be treated along with the FIR already lodged in respect of the incident.

It is submitted by the petitioner that the police authorities did not proceed with the investigation in a free and fair manner and have spared the husband. According to the petitioner, the husband is the real accused person.

The report filed by the Officer-in-Charge, Nannoor Police Station, indicates that during investigation and upon examination of available witnesses, statements were recorded under Section 161 of the Cr.P.C. The police authorities came to know that the victim had a relationship with the FIR named accused for five to six years. The accused was also friendly with the children of the deceased and often showered them with gifts. When the husband of the deceased came to know of such relationship, the deceased tried to avoid meeting the accused. The accused tried hard to contact the deceased. The deceased refused and on the fateful day, the accused was waiting with a knife close to the house of the deceased at about 00:30 hours and stabbed the deceased.

Statements under Section 164 Cr.P.C. of three persons including the de facto complainant in the FIR which was lodged on May 20, 2021 have been recorded. Raids were held. The FIR named accused was arrested. The investigation has been concluded with the filing of a charge-sheet along with the prayer

to submit a supplementary charge-sheet after obtaining the clinical examination report. The report also deals with the allegations made by the petitioner. The report is taken on record.

The petitioner alleged before the police authorities that the husband and the in-laws murdered the deceased and it was a case of dowry death. The petitioner was served a notice under Section 160 of the Cr.P.C. and was asked to produce documents relating to torture upon the deceased by the in-laws. He was unable to produce any document in that regard. During interrogation of the neighbours, the facts which were unravelled by the police while investigating into the first FIR was proved to be correct. An extra judicial confession was made by the accused to a maternal uncle of the deceased.

The police authorities concluded the investigation. Upon finding, prima facie, that the FIR named accused was the offender and not the in-laws. The police authorities have categorically stated that the investigation and examination of witnesses did not reveal that the allegation of the petitioner against the husband and in laws was correct.

Thus, this court does not find any laches or negligence on the part of the police authorities in the investigation. The police authorities being the

investigating agency have done their duty and filed the charge-sheet on the basis of the investigation.

If the petitioner is aggrieved with the contents of the charge-sheet, the petitioner is at liberty to approach the appropriate jurisdictional magistrate.

These observations are only for the purpose of disposal of the writ petition. The learned Magistrate if approached by the petitioner, shall not be influenced by this order.

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.)