

03.08.2022
Item No.10
Court No.32
Avijit Mitra

WPA (H) 43 of 2022

In re: An application under Article 226 of the
Constitution of India;

And

Asia Begam

-vs-

State of West Bengal & ors.

Mr. Tauhid Khan

....for the petitioner

Mr. Debabrata Chatterjee,

Mr. Simanta Kabir

...for the State

Mr. Biswajit Tiwari

....for the respondent no.9

Mr. Khan, learned advocate appearing for the petitioner submits that the petitioner's husband went missing on and from 18th June, 2022. A complaint was thereafter lodged by the petitioner on 23rd June, 2022. The same was registered as Kolaghat Police Station Case No.329 of 2022 dated 23rd June, 2022 under Sections 363/365/34 of the Indian Penal Code. However, the police authorities have not conducted proper investigation and the petitioner's husband has not yet been recovered. Aggrieved by such inaction on the part of the police authorities, the petitioner has preferred the present writ petition.

Mr. Kabir, learned advocate appearing for the State submits that there had been no inaction on the part of the police authorities. Upon receipt of the

complaint, Kolaghat Police Station Case No.329 of 2022 dated 23rd June, 2022 was registered. Several raids were conducted and on 13th July, 2022 one accused person, namely, Rajesh Khan *alias* Rajesh Hossain was arrested and presently he is in custody. Investigation is still continuing. The call data records have been obtained and the police authorities are making a sincere endeavour to recover the petitioner's husband. Let the written instruction, as produced, be kept on record.

Mr. Tiwari, learned advocate appearing for the respondent no.9 submits that the said respondent had been falsely implicated in the instant case.

In the complaint, the petitioner herself had stated that her husband left their residence on 18th June, 2022 but he did not return back. Subsequently, she received information that her husband along with his friend Tanjir Hossain *alias* Bapi was seen on 18th June, 2022 in a restaurant. On 19th June, 2022, in the evening he was also seen at Mechada. But thereafter no further information was received and that her husband had been kidnapped.

A writ in the nature of *habeas corpus* is a prerogative writ by virtue of which the causes and validity of detention of a person are investigated by a summary procedure. In the complaint lodged by the petitioner, we do not find any material to infer that her husband is under illegal detention. The petitioner's

complaint was treated as FIR and investigation is still continuing. The jurisdiction under *habeas corpus* petition cannot be used to usurp the ordinary administration of criminal justice.

In view thereof, we are of the opinion that no interference is called for in the present *habeas corpus* petition.

Needless to observe, the police authorities shall conduct investigation in Kolaghat Police Station Case No.329 of 2022 dated 23rd June, 2022 in a fair and impartial manner and conclude the same as expeditiously as possible.

Nothing herein shall, however, prevent the petitioner from taking appropriate steps before the competent forum, in accordance with law.

With the aforesaid observations, the present *habeas corpus* petition is disposed of.

There shall, however, be no order as to costs.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Raja Basu Chowdhury, J.) (Tapabrata Chakraborty, J.)