

20.01.2022
Item No.08
Crt. No.16.
KB/RP

WPA (H) 59 of 2021

**Rupa Das
-Vs-
State of West Bengal & Ors.**

(Via Video Conference)

Mr. Kalyan Kumar Chakraborty
... For the Petitioner

Mr. Debabrata Chatterjee
Mr. Simanta Kabir
... For State

This Habeas Corpus petition has been filed to direct the respondent authorities to conduct an impartial investigation and trace the petitioner's daughter Mitali Das pursuant to a complaint dated 31.10.2021. The case has a checkered history and report has been called for time to time.

Pursuant to the order dated 23.12.2021 the minor girl was sent to Krishnagar Home under the Child Welfare Committee upon intimation to the petitioner. As on date the whereabouts of the minor girl is well known to the petitioner. When the matter came up before this Court on 3.01.2022 we passed the following order.

"Be that as it may, we find that the victim girl is now in the home. If the petitioner, as a mother, is desirous of meeting her daughter,

then we give liberty to her to approach the Chairperson, C.W.C., Nagendranagar, Krishnagar, Nadia and make a request that she is desirous of meeting her daughter. On such request being made, the concerned Chairperson of C.W.C. shall ascertain the willingness of the victim girl and thereafter arrange for a meeting. If the victim girl is adamant, the Chairperson can depute one of his officers to convince the victim girl that at least once she should meet her mother.”

Learned Government Counsel submitted a copy of the action taken report filed by the Sub-Inspector of Police, Tehatta PS, Nadia, stating that in compliance with the order dated 3.1.2022 which was communicated to the Chairperson, C.W.C., the petitioner has met her daughter. In terms of the liberty granted on 3.1.2022 it was open to the petitioner to make a request to the Chairperson, C.W.C. to meet her daughter subject to willingness of the minor daughter to meet with her. However, the petitioner appears to have not availed such liberty granted by us but chose to file a petition before the Court of the Additional District Judge, Tehatta, Nadia which was registered as POCSO Case No.1 of 2022. By order no.3 dated 19.1.2022 the Special Court has rejected the petition. The order reads as follows:

“Record is put-up again today along with the petition submitted by Rupa Das, mother of the victim girl which was filed on 25.3.2021.

V.G. is produced from shelter home. The petition for custody of victim girl is taken up today.

Heard the Ld. Advocate for the petitioner, the Ld. P.P. in-charge. Heard also the petitioner and the victim girl, in person. Perused the record. Considered. The Ld. P.P. in-charge has raised objection and submitted that if the victim who is pregnant is released to the custody of her mother she will be in the clutches of accused persons and investigation of this case will be seriously prejudiced. The statement recorded today shows that the apprehension of the Ld. PP in-charge is not groundless. The record also shows that the Hon’ble High Court has put the victim girl in the care of CWC. Furthermore, nature of case and the attitude expressed by the mother of the victim exposes that there is every risk/prejudice to the well being of victim girl.

Thus I am not inclined to allow the prayer and release the victim girl to the custody of her mother and the prayer for return of VG is rejected.

This Court also expresses anguish that the Ld. magistrate has enlarged all the three accused persons on bail on the very date of their surrender. The PP-in-Charge is requested to guide IO concerned for taking necessary steps.

To 28.01.2022 for appearance and further order. The VG along with a copy of this Order be sent back to the safe home. The envelop containing statement be sealed again and kept in safe custody.”

Thus, it is clear that the petitioner has chosen to avail other remedies, which are available under law and if at all the petitioner is aggrieved by the order of the Special Court the remedy lies elsewhere. Thus, we are of the view that the minor girl is not in illegal custody as she has been in the Children's Home under the direct supervision of the CWC. Thus, we find no ground to issue any writ of Habeas Corpus as prayed for.

The writ petition is, thus, disposed of.

(T.S. Sivagnanam, J.)

(Hiranmay Bhattacharyya, J.)