

17.08.2022

Court No.32
rpan/01

WPA (H) 62 of 2022
Ranjan Nath
- Versus -
The State of West Bengal & Others

Mr. Jayanta Narayan Chatterjee,
Ms. Nandini Chatterjee,
Mr. Supreem Naskar,
Ms. Jayashree Patra,
Mr. Pritha Sinha
... for the Petitioner.

Mr. Debabrata Chatterjee,
Mr. Simanta Kabir
... for the State.

Mr. Partha Sarathi Bhattacharya,
Mr. Shibaji Kumar Das,
Ms. Rupsa Sreemani
... for the Respondent no.7.

Mr. Kalyan Kr. Chakraborty,
Ms. Anjana Meheubub,
Mr. Ashok Halder
... for the Respondent no.12.

The present *habeas corpus* petition has been preferred primarily praying for the following relief:

‘b) A writ in the n nature of Habeas Corpus do issue directing the respondents especially and more particularly the respondent police authorities to take immediate steps to recover, rescue and production of Shyamolima Bhaumik from illegal and forceful detention.’

Mr. Chatterjee, learned advocate appearing for the petitioner submits that the petitioner was in a live-in relationship with one Shyamolima Bhaumik, being the victim lady, since October, 2017. In view of such relationship, the victim was not treated well by her family members. On 18th March, 2021 when the victim

was leaving her parental house, she was abused and tortured by her family members, particularly by her mother, being the respondent no.7 herein and the neighbours. She was also administered certain medicines by the respondent no.7 forcibly. A complaint to that effect was lodged by the victim on 20th March, 2021. The said complaint was registered as FIR and Jadavpur Police Station Case no.115 dated 20th March, 2021 under Sections 341/323/354/509/114 of the Indian Penal Code was registered but appropriate steps were not taken by the police authorities. Subsequent thereto, the petitioner came to learn that the victim had been illegally detained at Genesis Foundation (in short, the said foundation), which is stated to be a rehabilitation centre, being the respondent no.12 herein. A formal complaint to that effect was also lodged by the petitioner before the Officer-in-charge, Narendrapur Police Station on 21st October, 2021 but no steps have been taken. Aggrieved thereby, the petitioner was constrained to prefer the present writ petition.

According to Mr. Chatterjee, the victim had been illegally detained in the said foundation and she should be immediately released so that she may peacefully reside along with the petitioner.

Mr. Kabir, learned advocate appearing for the State categorically denies that the State authorities

have failed to discharge their statutory obligations. The allegations as levelled against the State authorities are absolutely unfounded.

Mr. Bhattacharya, learned advocate appearing for the respondent no.7 argues that the present petition itself is not maintainable since her daughter is not under illegal detention. As her daughter was not taking her medicines regularly and as her health condition was deteriorating, the respondent no.7 shifted her to the said foundation. In support of his argument, Mr. Bhattacharya has placed reliance upon a judgment delivered in the case of *Shafin Jahan Vs. Asokan K. M. & Others*, reported in (2018)16 SCC 368.

Mr. Chakraborty, learned advocate appearing for the respondent no.12 denies the allegations as levelled against the said foundation and submits that the victim has been kept in an accommodation provided by the said foundation and she is residing there on her own volition. Her medical needs are being attended to by the said foundation under the supervision of the doctors. Answering our query, he submits that the respondent no.7 is paying an amount of Rs.7,500/- per month to the said foundation.

In reply, Mr. Chatterjee submits that the said foundation has no right whatsoever to keep the victim in its custody. It is not an approved rehabilitation center and is not functioning in terms of the guidelines

under the '*Central Sector Scheme of Assistance of Prevention of Alcoholism and Substance (Drugs) Abuse and for Social Defence Services*'.

Pursuant to an order passed by a co-ordinate Bench of this Court on 17th March, 2022, the Secretary of the District Legal Services Authority, South 24-Parganas had recorded the statement of the victim and filed a report before this Court. Pursuant to the said order and an order dated 29th July, 2022, a further report has been filed upon causing a inspection in the said rehabilitation center. Let the said reports be kept on record.

Heard the learned advocates appearing for the respective parties and perused the medical reports as well as the statement of the victim, as recorded pursuant to the order of this Court.

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 present case, the victim is a lady of about 29 years. The place where she is now residing has already been disclosed. She is an adult lady and has the discretion to decide where she should reside. There is no material on record to infer that the victim has been illegally detained in the said foundation.

In the said conspectus, no further interference is called for in the present *habeas corpus* petition, being WPA (H) 62 of 2022 and the same is, accordingly, disposed of.

Nothing in this order shall, however, prevent the petitioner from initiating appropriate proceedings before any other court or in any forum seeking relief, in accordance with law.

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

Urgent photostat certified copy of this order, if applied for, be supplied to the parties, upon compliance of all requisite formalities.

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