

WPA (H) 52 of 2022

Goutam Naskar

v.

The State of West Bengal & Ors.

28.11.2022
SL-01
Ct.32
(S.R.)

Mr. Gobinda Chandra Baidya	... for the petitioner.
Mr. Sabir Ahamed	
Mr. Simanta Kabir	... for the State.

Mr. Baidya, learned advocate appearing for the petitioner submits that his daughter, who is a minor, went missing on and from 24th March, 2022. A complaint was lodged to that effect on 27th July, 2022. However, no steps were taken by the police authorities to recover the victim girl. Aggrieved thereby, the petitioner, who is the father of the victim girl, has preferred the present *habeas corpus* petition.

Mr. Baidya alleges that proper investigation has not been conducted by the police authorities and there is every possibility that the victim girl may be trafficked. The police authorities have failed to discharge their statutory obligations and such inaction warrants issuance of necessary direction in the present *habeas corpus* petition.

Per contra, Mr. Kabir, learned advocate appearing for the State submits that the victim girl earlier eloped with the private respondent no.7 on 19th December, 2021. A complaint was lodged to that effect, which led to

registration of Jibantala Police Station Case No.408 of 2021 dated 22nd December, 2021 under Sections 363/365 of IPC and Section 6 of the POCSO Act. In course of investigation, the victim girl was recovered on 23rd February, 2022 from Tamilnadu. She was kept in a home. The petitioner thereafter, upon execution of a bond, took the victim girl to his residence on 17th March, 2022. Subsequently, on 27th July, 2022 a further complaint was lodged that the victim girl was allured and kidnapped by the self-same respondent no.7 on 24th March, 2022.

Drawing our attention to the statement of the victim girl, as recorded under Section 164 of the Code of Criminal Procedure, in course of investigation in Jibantala Police Station Case No.408 of 2021, Mr. Kabir submits that the victim girl categorically stated that she was having a love relationship with the respondent no.7. As such relationship was not accepted by her parents, she voluntarily left her paternal house and went away with the respondent no.7.

Answering our query, Mr. Kabir submits that in the Jibantala Police Station Case No.408 of 2021 investigation was completed and charge-sheet was submitted on 31st March, 2022.

Pursuant to our earlier direction, Mr. Kabir has placed before us a report submitted on behalf of the

respondent no.6. Let the same be kept on record.

From the said report, it appears that on 28th September, 2022 a police team was sent to the state of Tamilnadu and raid was conducted in the area under the jurisdiction of Kangayam Police Station and Tripur South City Police Station on 22nd September, 2022 and 25th September, 2022 respectively but the victim girl could not be recovered. Upon receiving credible source information, further raids were conducted at different places within the jurisdiction of Gosaba P.S., Narendrapur P.S. and Sonarpur P.S. but the victim girl could not be recovered.

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.

From the records, it appears that the victim girl earlier went away with the respondent no.7 and she was recovered on 23rd February, 2022 from Tamilnadu and was initially placed in a home. Upon execution of a bond, the petitioner took custody of the victim girl. It was subsequently alleged that the victim girl had again eloped with the same person being the respondent no.7 but the complaint to that effect was lodged about four months thereafter on 27th July, 2022. Pursuant to the said complaint, Jibantala Police Station Case No.344 of 2022 dated 29th August, 2022 under Sections 363 and 365 of

the Indian Penal Code was again registered and investigation is still continuing.

It appears that after recovery on 23rd February, 2022, the victim girl again fled away with the respondent no.7. In her statement, recorded under Section 164, in connection with Jibantala Police Station Case No.408 of 2021, she had stated that she willingly left her parental house and went away with the respondent no.7.

We are afraid that the exercise of the power of writ in the nature of *habeas corpus* would perhaps not be feasible in the fact situation of the instant case.

In view thereof, no further interference is called for in the present *habeas corpus* petition and the same is, accordingly, disposed of.

Nothing herein shall, however, prevent the petitioner from initiating proceedings before any other court or forum seeking relief according to law.

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

(Partha Sarathi Chatterjee, J.) (Tapabrata Chakraborty, J.)