

07.07.2022
Court No. 19
Item no.348
CP

W.P.A. No. 20605 of 2021

Ashim Biswas

Vs.

The Officer-in-Charge, Gariahat Police Station & ors.

Mr. Nilanjan Adhikari

...for the petitioners.

Mr. Amitesh Banerjee

Mr. Subhabrata Dutta

Mr. Sanatan Panja

...for the State.

The report of the Deputy Commissioner of Police, South East Division, Kolkata has been filed. The police report is taken on record. From the report it appears that Gariahat PS Case No. 61 dated April 8, 2022 under Section 306 of the Indian Penal Code, has been initiated.

The petitioner is aggrieved because the police authorities did not register an FIR after the death of his son. According to the petitioner, even if no specific complaint had been filed by the petitioner, the police authorities ought to have registered a *suo motu* FIR. The report narrates the incident in details.

On March 16, 2021, the police station received an information from a guest house situated at 21/1/1D, Ballygunj Station Road, Kolkata – 19 that a boarder (deceased) was not opening the door. The guest house used to keep paying guests. The duty

officer of Gariahat Police Station along with another officer rushed to the spot. The in-charge of the guest house, namely one, Samir Dutta, accompanied the police to the floor where the deceased used to reside. The police found that the door was locked from inside and no one opened the door, despite continuous knocking.

The door was broken by the manager with the assistance of the police. It was found that the deceased was hanging from a ceiling fan with the help of a nylon cord. It was also detected that the victim had expired. Non-continuous ligature marks around the neck were visible. The tongue was protruded. The body was removed to SSKM hospital for post-mortem and the autopsy surgeon opined that the death was due to anti-mortem hanging. There were no signs of external injury. The mobile phone of the petitioner was collected and the petitioner was informed. An U.D Case No. 7 dated March 16, 2021 was initiated by the Gariahat Police Station.

The petitioner filed a complaint before the police station with specific allegations against some persons on May 17, 2021. As the police authorities did not register an FIR, the petitioner moved this court. On the direction of this court, Gariahat PS

Case No. 61 dated April 8, 2022 under Section 306 of the Indian Penal Code has been started.

The Officer-in-charge, Gariahat Police Station was issued a show cause notice to explain why prompt action had not been taken after receipt of the complaint of the petitioner.

It appears that upon receipt of the complaint of the petitioner and during the pendency of the U.D Case, an enquiry was made and, prima facie, the allegation of the petitioner against a particular lady was not found to be substantiated. In any event, now that the police station case has been initiated, the Deputy Commissioner of Police, South East Division, Kolkata is directed to ensure that the said investigation is concluded by a competent officer under his guidance, supervision and monitoring.

The investigation shall be concluded within a period of three months from the date of communication of 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.)