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07.03.2022.
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Calcutta High Court
In the Circuit Bench at Jalpaiguri
Appellate Jurisdiction

W.P.A. 283 of 2022
(via video conference)

Daib Ali @ Daiber Ali
-versus
The Ministry of Home Affair & Ors.

Mr. Moyukh Mukherjee
Mr. Sabir Ali ... For the petitioner

Mr. Subir Kumar Saha, Ld. AGP
Mr. Momenur Rahman ... For the State

Mr. Sudipto Kumar Majumder, Id. Asstt. S.G.
Mr. Ajoy Kumar Singhania
Mr. Sudip Kumar Paul
... For the respondent nos. 1, 2, 7, 9 and 11

The petitioner alleges that his son was shot dead by the Border Security Force personnel at point black range without giving any opportunity to defend himself. The shootout took place on 23rd December, 2021.

The petitioner alleges that in spite of repeated complaints, no investigation has been conducted by the police.

Learned advocate representing the State respondents has received instruction from the Sub-Divisional Police Officer, Dinhata, Cooch Behar wherefrom it appears that on 23rd December, 2021 a written complaint was lodged against the son of the petitioner and seven other persons alleging cattle smuggling towards Bangladesh International Boundary. The incident was diarized before Dinhata Police Station Case No. 651/2021 dated 23rd December, 2021 under Sections

143/341/186/188/189/353/333/307 of Indian Penal Code and S.I. Rajendra Tamang was endorsed for the investigation of the case.

In course of the investigation the Investigating Officer found that Kotwali UD Case No. 492 of 2021 dated 23rd December, 2021 was initiated and an inquest report of the deceased son of the petitioner was prepared and the dead body was forwarded to the MJN Medical College and Hospital for post mortem examination. The medical practitioner of the aforesaid Medical College and Hospital, forensic and toxicology department had conducted the autopsy of the deceased.

On 1st January, 2022 the petitioner filed another complaint over the issue and a further case was instantly registered by the Dinhata Police Station being Case No. 05 of 2022 dated 1st January, 2022 under Section 302 of the Indian Penal Code against the 90 Bn BSF stationed at Gitaldaho BOPO. The investigation of the case has been entrusted to S.I. Prabir Dutta of the Dinhata Police Station. Presently, both the cases are under investigation and further evidences are forthcoming.

In view of the aforesaid instruction which was been forwarded by the SDPO Dinhata, Cooch Behar, no further order is required to be passed in the writ application, save and except that the police officer concerned shall proceed with the investigation of the aforesaid cases strictly in accordance with law, at the earliest.

The writ petition is disposed of.

The instruction given by the SDPO, Dinhata, Cooch Behar along with supporting documents be retained with the records.

Urgent Photostat certified copy of this order, if applied for, be given to the parties, after completion of all legal formalities.

(Amrita Sinha, J.)