

18.09.2023
Item No.01
Court No.11
Avijit Mitra

WPA (H) 9 of 2023

In re: An application under Article 226 of the
Constitution of India;

And

Gita Ghosh

-vs-

The State of West Bengal & ors.

Mr. Sayantan Adhya,
Mr. Mrinal Kanti Biswas,
Ms. Smritikana Ghosh
....for the Petitioner

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

Mr. Jayanta Narayan Chatterjee,
Ms. Moumita Pandit,
Mr. Supreem Naskar,
Ms. Jayashree Patra,

....for the respondent nos.6,8,10 &11

One ill-fated lady has knocked the door of this
Court to get back her daughter, namely, Susmita Ghosh
(in short Susmita) who went missing on 25th May, 2018.

The petitioner, her village people and other well-
wishers frantically searched her in all possible places she
might have gone but in vain. The incident was reported
to the Pradhan of the local Panchayat, Block Development
Officer, Singur, Sub-Divisional Police Officer concerned
but to no avail. On 26.05.2018, the petitioner made a
specific complaint in Chanditala Police Station , inter alia,

contending that the respondent no.6 might have kidnapped the victim girl for any ulterior motive . On the basis of the complaint, Chanditala Police Station Case no.212 of 2018 dated 26th May, 2018 under Sections 363/365 of the Indian Penal Code was started. Despite receipt of such complaint, the police authorities did not take any effective step to find the whereabouts of the victim girl.

The petitioner was forced to file one complaint under Section 156 (3) of the Code before the Court of learned Additional Chief Judicial Magistrate, Serampore, Hooghly. Treating the said complaint as an FIR, Chanditala Police Station Case no.444 of 2022 dated 3rd September, 2022 under Sections 363/365/504/506 of the Indian Penal Code was started against the private respondents but in spite of institution of such proceedings, the police did not take any step to recover the victim girl. Consequently, the writ petitioner has been constrained to approach this Court by preferring this writ petition.

In compliance with the order passed by us earlier, the investigating agency produced one report wherein it was reported that the ongoing investigation indicates that the victim lady while crossing the railway track near Kamarkundu railway station was knocked down by an unknown train and the deceased received severe injuries on her person and died on the spot. Following the

accident, Kamarkundu GRPS UD case no.33 of 2018 dated 26th May, 2018 was started. Autopsy of the dead body was done and P.M. report was also produced before us. The victim was born on 19.1.2003 and hence, on the date of incident she attained the age of 15 years only but in the P.M. report, age of deceased was recorded as 35 years. Obviously, there was a suspicion as to whether the dead body was of the victim lady or not.

We invited the parties to file their affidavits. Accordingly, the parties have exchanged their affidavits, as directed.

Mr. Adhya, learned advocate appearing for the petitioner submits that the body which was found on the railway track can never be the body of the victim girl. He vociferously contends that the police authorities has misguided the Court and the police authority did not nab the accused persons and they did not make sincere endeavor to recover the victim girl. He contends that the investigation of this case should be transferred to any other agency.

Mr. Kabir, learned advocate appearing for the State respondents submits that the investigation conducted so far gives an indication that the victim girl died following the accident occurred on the railway track near Kamarkundu railway station and although on the *post mortem* report, the age of the victim was mistakenly recorded as 35 years. He contends that from the report

submitted by the forensic expert, it would be explicit that the photograph of the dead body taken at the time of autopsy and the photograph of the victim were matched. He submits that investigation is still going on and the further progress of the investigation will be brought to the notice of the Court as and when the investigating authority would be asked to do so.

Heard the learned advocates appearing for the respective parties, perused the materials on record and the reports, as produced. The investigation and the forensic report *prima facie* indicate that the body which was found on the railway track near Kamarkundu railway station was the body of the victim.

The principal accused namely Susanta Hambir was interrogated thrice by the police authorities but no fruitful result has been yielded therefrom. A writ of *habeas corpus* is dealt with in a summary proceeding whereby the cause, legality and justification of detention of any person are enquired into. The writ of *habeas corpus* is available as a remedy in case of wrongful deprivation of personal liberty. From the documents and reports produced before us we did not find any material to infer that the victim girl was illegally detained by any person or authority. Hence no further interference is called for in this writ petition.

Needless to observe, the police authorities shall conduct the investigation in a fair and impartial manner

and bring the same to its logical conclusion, as expeditiously as possible.

Nothing herein shall, however, prevent the petitioner from taking appropriate steps before any other forum, if so advised and in accordance with law.

With the above observations and directions, the writ petition is disposed of.

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

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

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