

10.04.2023
Court No.13
Item No.370
AP

WPA 1556 of 2020

**Sandhya Roy and Anr.
Vs.
The State of West Bengal and Ors.**

Ms. Kakali Samajpaty
Mr. Pramit Chakraborty
Ms. Pratima Barman
Mr. Subhranil Roy

... For the Petitioners.

Ms. Ipsita Banerjee

... For the State.

The Superintendent of Police, Hooghly Rural Police District has filed a report dated 30th March, 2023 and the same is taken on record.

Let a copy of the report be made available to the counsel for the petitioners.

It appears from the record that by the time this Court order dated 9th October, 2018 passed in WP No.13001 (W) of 2017, there was nothing left with the FSL laboratory to conduct any DNA test. FSL report of the viscera of the deceased was submitted to the IO in June 2016. All the viscera were consumed in course of such FSL examination.

This Court is unable to countenance that the entire viscera can be stated to have been consumed in course of preparing FSL report. There appears to be a very gray area in this regard. The omissions on the part of the FSL scientists or doctors cannot be ruled out.

In the aforesaid circumstances, the Director, Forensic Science Laboratory at Belgachia, Kolkata shall conduct an enquiry into the matter and take appropriate steps as may be permitted in law.

The thrust of the petitioner's argument is that her daughter was murdered by the accused persons. The FSL report, based on which the IO filed the charge sheet, did not belong to the viscera of her daughter. It is submitted by the petitioner that FIR named accused doctor Dibeyendu Chakraborty was responsible for the treatment and incorrect viscera to be sent for the FSL report.

The trial has commenced. The petitioner is deposing in the trial.

In the aforesaid circumstances, this Court directs the Additional Sessions Judge, 2nd Court at Arambag seized of the trial, based on available evidence to, if necessary, exercise powers under sections 311 and 319 of the CrPC to include any other persons as accused in the trial based on appropriate evidence and in accordance with law.

The Registry of this Court shall communicate this order to the Additional Sessions Judge, 2nd Court at Arambag and the Director, FSL at Belgachia, Kolkata.

With the aforesaid directions, the writ petition shall stand disposed of.

There shall be no order as to costs.

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

(Rajasekhar Mantha, J.)