

**MAT 286 of 2023
With
CAN 1 of 2023**

**Hira Bhattacharyya
Vs.
The State of West Bengal & Ors.**

Mr. Sandip Ghose
Mr. Supratim Bhattacharjee
... ... for the appellant
Mr. Amitesh Banerjee, Sr. Adv.
Mr. Tarak Karan
... ... for the State

This intra-court appeal is directed against the order of the learned Single Judge dated 31st January, 2023 passed in WPA 19080 of 2022 whereby the petition has been disposed of with certain observations.

The appellant had approached the Writ Court with the plea that his son had died in an unfortunate circumstances at the age of 12 years sometimes on or about 1st June, 2019. The appellant was not satisfied with the investigation, therefore a prayer was made in the petition to direct re-investigation by the Central Bureau of Investigation or Criminal Investigation Department of the State or any other independent agency.

Learned counsel for the State has informed that initially the investigation was conducted by the State police authority. Thereafter, on the direction of the Court the investigation was handed over to the CID which had completed the investigation and filed the final report.

A perusal of the order of the learned Single Judge also reveals that the final report has been filed.

Learned Single Judge has rightly reached to the conclusion that the petitioner has remedy to challenge the same before the Jurisdictional Magistrate. Hence, the learned Single Judge has committed no error in observing that if Magistrate is approached by the appellant he shall decide the matter uninfluenced by any observation made in the order.

It is worth mentioning that the learned Single Judge has kept all the issues open for being agitated before the Magistrate.

We are of the opinion that the lapse, if any, in the course of investigation can duly be looked into by the Jurisdictional Magistrate having regard to the material which is available in the final report in the light of the objection, if any, filed by the appellant. Therefore, at this stage we do not find any good ground to interfere in the order of the learned Single Judge.

Appeal is accordingly disposed of.

Connected application is also disposed of.

(Prakash Shrivastava, C.J.)

(Rajarshi Bharadwaj, J.)