

WPA(H) 17 of 2023

(Nirmal Kumar Mukhopadhyay Vs. The State of
West Bengal & Ors.)

Mr. Rafikul Islam Sardar

..... For the petitioner

Mr. Debabrata Chatterjee, APP

Ms. Mousumi Sarkar

..... For the State

Mr. Debasis Kar

Mr. Arka Tilak Bhadra

..... For the respondent no. 6

The writ petition has been preferred primarily for the following reason:-

“(a) A writ of and/or in the nature of Habeas Corpus do issue directing the respondents particularly the respondent Nos. 2 and 5 to produce the son of the petitioner before this Hon’ble Court.”

The fact as unfurled in the writ petition is that the petitioner’s son, namely, Nirmalya Mukopadhyay (in short, ‘Nirmalya’), aged about 23 years went to have a bath in the river Ganga on 4th April, 2022 but he went missing and consequently, on the next date, one missing diary *vide* No. 344 dated 5th April, 2022 was lodged and on 9th April, 2022 and 6th May, 2022, the writ petitioner made complaints before the Deputy Commissioner of Police, North Barrackpore, North 24-Parganas, Kolkata stating that during interrogation the respondent no. 6 made some contradictory statements and accordingly, a thorough enquiry was required to be done to unearth the truth.

Almost about one year of the incident, one unnatural death case was started only on 1st April, 2023 and the petitioner by making complaints to various authorities on diverse dates, has ventilated his grievance and requested to take appropriate steps to trace out his missing son, Nirmalya but no effective steps have been taken. Aggrieved thereby, the writ petitioner has been constrained to approach this Court by taking out this instant writ petition.

Mr. Sardar contends that investigation conducted so far by the concerned police authority is not at all satisfactory. Investigation of this case may be transferred to Criminal Investigation Department, West Bengal.

Mr. Chatterjee, learned Additional Public Prosecutor appearing for the State submits that on the date of incident i.e. on 4.4.2022 at noon, Nirmalya went to have a bath in the river Ganga and he was enjoying adventurous diving into the river. The respondent no. 6 had taken snaps of such driving and two other persons have witnessed the incident. He contends that due to strong current, he was floated away in the mid-river and ultimately drowned. He submits that an unfortunate fact is that his body could not be recovered although Disaster Management Group was employed to trace out his body. He submits that there was no foul play in the matter and it was just an accident. He further submits that after completion of investigation, police authority has

submitted a final report in the U.D. Case. A report, as produced by Mr. Chatterjee, is taken on record.

Mr. Kar submits that the respondent no. 6 has been unnecessarily arrayed in the writ petition and he was assisted the police authority and he is ready to co-operate if such cooperation is sought for in future.

Heard the learned advocates, perused the case diary and other materials on record.

Record reveals that the investigating agency after completion of investigation, has submitted a final report in respect of the unnatural death case and the concerned investigating agency has arrived at a conclusion that there was no iota of doubt that the petitioner's son, Nirmalya drowned in the river Ganga and till date, his body could not be traced out.

In such sequence of facts and on close scrutiny of the report of the investigating officer, we do not find any material to infer that the petitioner's son, Nirmalya, was illegally detained by any person or authority.

In view thereof, no interference is required to be called for in the writ petition and consequently, the same is disposed of.

It is made clear that nothing in this order will prevent the petitioner from taking necessary steps before the competent forum, if so advised and in accordance with law.

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.)