

WPA (H) 23 of 2023

(Chamina Molla Vs. The State of West
Bengal & Ors.)

Mr. Mrityunjoy Chatterjee
Mr. Debapriya Majumder

..... For the petitioner

Mr. Simanta Kabir

..... For the State

The present writ petition has been preferred
primarily praying for the following relief:-

- (a) *'A writ of and/or direction in the nature of Habeas Corpus commanding the Respondent nos. 4 and 5 to rescue and/or recover the son of the petitioner, namely Sakil Molla forthwith and act in accordance with law immediately and to conduct the said investigation within a time limit.'*

Mr. Chatterjee, learned advocate appearing for the petitioner submits that on 10th November, 2019 the private respondents gave a proposal to the petitioner to allow her son, namely, Sakil Molla (in short, Sakil) to accompany them to a different State for engagement in a job. The petitioner accepted such proposal and allowed Sakil to accompany them. Surprisingly thereafter, the petitioner did not get any information as regards the whereabouts of Sakil. Accordingly, she lodged a general diary being G.D. No. 375 of 2019 dated 7th December, 2019 before the respondent no. 5. Surprisingly about two years thereafter, the accused

persons met with the petitioner and handed over the wearing apparels to Sakil. Stating such facts, the petitioner immediately lodged a complaint but no steps were taken by the authorities to conduct proper investigation though a formal FIR was registered. In spite of repeated reminders, police authorities have not taken appropriate steps and Sakil is still missing. Aggrieved thereby, the petitioner has approached this Court.

Mr. Kabir, learned advocate appearing for the State respondents submits that about two years after Sakil allegedly went missing, a complaint was lodged by the petitioner. The same was registered as FIR being No. 510 dated 1st December, 2021 under Sections 363/120B of the Indian Penal Code. In course of investigation, statements of one Ansar Ali Gazi and one Rahaman Molla were recorded under Section 164 of the Code. The details of the missing person were uploaded in the tracking portal. The investigating officer also went to various places in the State of Maharashtra and checked the U/D Case registers of the concerned police stations for the years 2019-2020. In spite of such efforts, Sakil could not be recovered. However, investigation is still continuing and it is not a case of illegal detention warranting interference of this Court. Let the report, as filed, be kept on record.

In reply, Mr. Chatterjee submits that appropriate directions may be issued to hand over the investigation to the CID authorities.

Heard the learned advocates appearing for the respective parties and considered the materials on record.

The petitioner allowed Sakil to accompany the alleged accused persons to the State of Maharashtra. Sakil is major and he also willingly left his residence. Allegedly, Sakil went missing from the month of November, 2019. A formal complaint was, however, lodged about two years after the alleged incident. A formal FIR was registered and the investigating officer went to the State of Maharashtra and also took all possible steps for ascertaining the whereabouts of Sakil and for recovering him. There is nothing on record to infer that Sakil had been illegally detained.

In view thereof, no further interference is called for in the present *habeas corpus* 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 in this order will prevent the petitioner from taking appropriate steps before the competent forum, if so advised and in accordance with law.

With the above observations, the *habeas corpus* petition being **WPA (H) 23 of 2023** 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.)