

WPA (H) 26 of 2023

Smt. Sima Ghosh

v.

The State of West Bengal & Ors.

23.08.2023

SL-02

Ct.11

(S.R.)

Mr. Mukteswar Maity ... for the petitioner.
Mr. Debabrata Chatterjee, APP
Mr. Simanta Kabir ... for the State.

An ill-fated lady has knocked the door of this Court with a prayer for issue of a Writ of *habeas corpus* to get back her son.

On 4th September, 2019, it was reported to Burtolla Police Station that the petitioner's son, namely, Rana Ghosh @ Akash Ghosh went missing on 2nd September, 2019. The said information was diarized as Burtolla Police Station G.D.E. No.270 dated 4th September, 2019. On 6th September, 2019, the petitioner again made a complaint contending that one Surajit Sahoo @ Shaw and one Puja Boral were involved in the incident of missing of her son. On 29th September, 2029, a specific case being Burtolla Police Station Case No.144 of 2019 dated 20th September, 2019 under Section 363 IPC was started and the statements of said Surajit Sahoo and Puja Boral, with whom the petitioner's son had a love affair, were recorded under Section 164 of the Code. In the meantime, one dead body was found under the jurisdiction of South Port Police Station which gave rise to the South Port P.S. U.D.

Case No.41 dated 4th September, 2019 and the dead body was shown to the petitioner but she refused to identify the said dead body as of her son. Then the DNA profile of the corpse was taken and the same was matched with the DNA profiles of the petitioner and her husband but the DNA profiles did not match and the forensic report came out with a finding that the petitioner and her husband were not the biological parents of the person whose dead body was found within the jurisdiction of South Port Police Station. Since, the whereabouts of the petitioner's son could not be traced in spite of lapse of considerable period of time, the petitioner has been constrained to approach this Court.

Pursuant to our earlier order, Mr. Chatterjee, learned Additional Public Prosecutor representing the State submitted a report prepared by the Officer-in-charge of Burtolla Police Station, Kolkata and that report was handed over to Mr. Maity, learned advocate for the petitioner for perusal and to make deliberation on the same.

Mr. Maity submits that there are many anomalies in the report. He submits that there is no indication when the statement of Surajit Shaw was recorded and he asserts that the petitioner's son is still alive and he has been illegally detained and the police authority concerned is not making sincere effort to recover the petitioner's son

and as such to trace out the petitioner's son, charge of investigation of the case should be handed over to another investigating agency.

Heard the learned advocates. Perused the materials placed before us.

From the report, it transpires that in connection with Burtolla Police Station Case No.144 of 2019, the investigation was conducted and the statements of Surajit Shaw and Puja Boral were recorded under Section 164 of the Code. Statements of those two persons indicates that the petitioner's son was mentally disturbed and/or upset with his broken relation with Puja Boral and on the day of celebration of Ganesh Puja in the month of September, 2019 Rana and Surojit took alcohol and then Surojit had a talk with Puja over phone and then they got down to the river Ganga to have a bath and swim and Rana floated away and drowned. Being frightened, Surojit fled away from the spot.

Report further indicates that the missing information was given in the Missing Person Squad, Lalbazar and several reminders were given to find the whereabouts of the petitioner's son and even the missing information of the petitioner's son were published in well circulated newspapers of the State on several occasions and we have been informed that the investigating officer has already completed his investigation and submitted

final report *vide*. No.33 of 2023 before the Court of the learned Additional Chief Metropolitan Magistrate, Calcutta.

In such sequence of facts, we do not find any material to infer that the petitioner's son has been illegally detained and as such, no further interference is called for in this writ petition and the same is, accordingly, disposed of.

It is further clarified that this order shall not preclude the petitioner from taking appropriate steps in accordance with law before the appropriate forum.

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

Urgent certified photocopy of this order, if applied for, be supplied as expeditiously as possible.

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