

06.02.2023
Court No.13
Item No.308
pk

WPA 18857 of 2021

Samaresh Banerjee
Vs.
State of West Bengal and others

Mr. S. R. Das,
Mr. Sayantan Rakshit
... for the petitioner.

Mr. Arindam Jana,
Mr. D. Banerjee
... for the Intervenor

The petitioner is aggrieved by investigation into the FIR registered in connection with the death of his son.

The O. C., New Barrackpore Police Station has filed a report dated 03.02.2023 addressed to State advocate. Report indicates that the investigation has been completed and Charge Sheet No. 191 of 2021 dated 21.05.2021 under Section 302 of the IPC has been filed.

It is submitted that FSL report of the viscera has not been received by the police till date.

Therefore, it is ordered that the FSL, Kolkata shall within a period of seven days make available final report in respect of the viscera to the I. O.

The petitioner may take steps as he may be advised in law against the charge sheet if he is of the view that there are omissions available therein.

This Court does not find grounds to transfer the investigation in the instant case, to a third agency since charge sheet has already been submitted and no case appears to have been made out for such transfer.

This Court notes that in nearly all cases where samples are sent by the police to the CFSL, Kolkata, reports are never sent in time. In most cases as in the instant case, report has been pending for more than one and half year. This Court is anguished at the conduct of the CFSL, Kolkata.

The Director, CFSL, Kolkata shall submit a detailed report to the Secretary, Ministry of Home Affairs and the Registrar General of this Court, within a period of 15 days from date on the following issues:-

- a) The number of applications along with samples received for report, by the CFSL, Kolkata by Police Stations across the State in the last three years.
- b) The number of reports pending as on date.
- c) Number of reports delivered by the CFSL till date.

- d) The average time taken for delivery of reports by CFSL, Kolkata, in the last three years.
- e) The reasons for the delay in submission of FSL report to the concerned Police Station/I. Os.

It may be noted, that in 99 per cent of the charge sheets filed by the police, Investigating Officers are compelled to record that, leave is reserved to file supplementary charge sheet, only because the FSL report is not available. The CrPC mandates a period within which investigations are required to be completed. Absence of FSL reports results in filing of tentative charge sheets. This causes serious prejudice to the prosecution and the accused. Where charge sheets cannot be filed for want of FSL reports the accused become entitled to Statutory Bail for no fault of the IO.

The Secretary, Ministry of Home Affairs shall suggest and implement urgent measures to ensure that CFSL at Kolkata and other parts of the State, function swiftly, effectively, and efficiently.

The Registrar General of this Court shall communicate this order to the Director, CFSL, Kolkata, Director General of Police, West Bengal and to the Secretary, Ministry of Home Affairs, Government of West Bengal.

The writ petition is disposed of.

There will be no order as to costs.

All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)