

WPA (H) 53 of 2022

Amitava Sengupta

v.

The State of West Bengal & Ors.

24.04.2023

SL-05

Ct.32

(S.R.)

Mr. Jayanta Narayan Chatterjee

Ms. Moumita Pandit

Ms. Nandini Chatterjee

Mr. Supreem Naskar

Ms. Sayashree Patra

Ms. Sreeparna Ghosh

Mr. Bhaskar Mondal

... for the petitioner.

Mr. Debabrata Chatterjee, APP

Mr. Simanta Kabir

... for the State.

The petitioner is a member of Association for Protection of Democratic Rights (in short, APDR), who has approached this Court primarily praying for the following relief: -

‘(b) A Writ in the nature of Habeas Corpus do issue directing the respondent authorities and specifically the respondent no.2, 3 and 4 to take immediate steps to conduct the search of Ms. Rinki Ghosh and recover, rescue and produce her before this Hon’ble Court;’

Mr. Chatterjee, learned advocate appearing for the petitioner submits that on 3rd July, 2022, a lady, about 26 years of age, was found roaming within the jurisdiction of Krishnanagar Municipality. Considering her safety and security, she was rescued by the members of APDR and was taken to Shaktinagar Zilla Hospital. The lady was examined by one doctor, namely, Raja Das and was admitted in general ward of medicine (female). Surprisingly, when the petitioner’s representative went to

meet with the lady on the next date, she was not found in the hospital. Such fact was reported to the respondent no.4 as well as the hospital authority. Since then, the victim lady is missing and no steps have been taken by the authorities to recover her.

Mr. Chatterjee further submits that the victim lady is suffering from psychiatric problems and it is surprising as to how the hospital authorities even after admission allowed the lady to leave the hospital. The State authorities including the respondent no.6 have miserably failed to discharge their obligations, as detailed in Section 100 of the Mental Healthcare Act, 2017.

Upon hearing the learned advocates, by an earlier order dated 13th March, 2023 this Court directed the respondent no.6 to file report in the form an affidavit detailing the steps taken by the hospital authorities on and from the date the victim lady was handed over to them for medical treatment. The respondent no.6 was also directed to indicate in the said report as to whether any enquiry was conducted fixing the responsibility towards missing of the victim lady from the said hospital.

Mr. Kabir, learned advocate appearing for the State submits that on the basis of the complaint lodged by the petitioner, Kotwali PS GDE No.345 dated 5th July, 2022 was registered. The photograph of the victim lady was hung-up at different strategic congested places within the

jurisdiction of concerned Police Station. Such photographs were also circulated within the adjacent Police Station jurisdiction, namely, Taherpur, Karimpur, Tehatta, Chapra, Bhimpur, Krishnaganj, Hanskhali, Nabadwip, Dhubulia, Nakashipara, Kaliganj, Santipur, Chakdaha, Ranaghat, Krishnagar GRP and Berhampore Police Stations. In spite of such efforts the authorities had not been able to recover the victim girl, however, the investigation is still continuing. Pursuant to the earlier order passed by this Court, the investigating officer was sent to Nalbari Police Station, Assam on 25th December, 2022 and Nalbari PS GDE No.823 dated 26th December, 2022 was registered. In support of such contention, Mr. Kabir has drawn our attention to the reports filed by the investigating authority, as called for earlier by this Court.

Today, Mr. Kabir has also filed a report of the respondent no.6 being the Superintendent District Hospital, Nadia. In the said report it has, *inter alia*, been stated that an enquiry Committee was constituted and show cause notice was issued to the security agency, namely, M/s. Indian Traders and their engagement was not extended subsequently. The Committee also adopted a decision to strengthen the security system of the hospital by providing ID tag to every patient for proper identification.

Records reveal that the victim lady was suffering

from psychiatric problems and as such, she was admitted for medical treatment. Unfortunately, she went missing from the concerned hospital. Pursuant to our earlier directions enquiry was conducted by the hospital authorities and all assistance was extended to the police authorities. In course of investigation, raids were conducted at various places and necessary steps were taken to recover the victim lady. In spite of such efforts, the victim girl has not yet been recovered but investigation is still continuing.

We do not find any material to infer that the victim lady had been illegally detained. The grievance of the petitioner is that the hospital authorities had miserably failed to discharge their obligations, as detailed in the Mental Healthcare Act, 2017.

A writ in the nature of *habeas corpus* is a prerogative writ by virtue of which the causes and validity of detention of a person are investigated by a summary procedure. This Court in exercise of its jurisdiction can neither usurp the ordinary administration of criminal justice nor can convert itself into a monitoring agency and indefinitely supervise the investigation.

In view thereof, no further interference is called for in the present *habeas corpus* petition being WPA (H) 53 of 2022 and the same is, accordingly, disposed of.

Nothing in this order shall prevent the petitioner from taking necessary steps before the competent forum, if so advised, in accordance with law.

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

Urgent Photostat certified copy of the order if applied for, be made over to the parties as expeditiously as possible.

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